

JUDGES' RETIREMENT SYSTEM

California Public Employees' Retirement System

LAW 2006

January 1, 2006

(Includes Law Changes Through the First Year
of the 2005/2006 Regular Session)

JUDGES' RETIREMENT SYSTEM 2006

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ARTICLE 1. GENERAL PROVISIONS

§ 75000. Title

This chapter shall be known and may be cited as the "Judges' Retirement Law."

The retirement system established by this chapter shall be known and may be cited as the "Judges' Retirement System."

(Added by Stats. 1953, Ch. 206; amended by Stats. 1980, Ch. 1213.)

§ 75001. Construction

Unless the context otherwise requires, the definitions and general provisions set forth in this article govern the construction of this chapter.

(Added by Stats. 1953, Ch. 206.)

§ 75002. "Judge"

"Judge" means a justice of the Supreme Court or of a court of appeal, or a judge of a superior court, municipal court, or justice court. A retired justice court judge does not acquire status as a judge for the purposes of this chapter by reason of designation as a judge pro tempore of, or assignment by the Chairperson of the Judicial Council to, any of these courts.

"Judge" shall not mean a justice court judge who elected pursuant to Section 75029.5 to be restored to membership in the Public Employees' Retirement System.

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(Added by Stats. 1953, Ch. 206; amended by Stats. 1959, Ch. 744; by Stats. 1967, Ch. 17; by Stats. 1989, Ch. 1417; and by Stats. 1994, Ch. 235.)

§ 75003. “Salary”

“Salary” means the compensation received by a judge as the emolument of the office of judge, and as limited by Section 75075.02, but, except as provided by Section 75076.2, does not include any additional compensation received by reason of designation as a judge pro tempore, assignment by the Chairperson of the Judicial Council, or the additional compensation pursuant to Section 68203.1.

(Added by Stats. 1953, Ch. 206; amended by Stats. 1959, Ch. 744; by Stats. 1989, Ch. 1417; by Stats. 1995, Ch. 829; and by Stats. 2001, Ch. 118, effective 7/30/01.)

§ 75004. “Service”

“Service” means the period of time a person has made contributions by reason of holding office as a judge of any one or more of the courts of this state specified in Section 75002, computed in years and fractions of years.

(Added by Stats. 1953, Ch. 206; amended by Stats. 1989, Ch. 1417.)

§ 75005. Administration

Notwithstanding any other provision of law, this chapter shall be administered and governed by the Board of Administration of the Public Employees' Retirement System in accordance with the Public Employees' Retirement Law to the same extent and with the same effect as if those provisions are contained in the Judges' Retirement Law, except for those provisions which provide for the payment of an allowance or other benefit and except for those provisions which conflict with any provision of the Judges' Retirement Law. “State Controller” or “Controller” as used in this chapter, or any other provision of law relating to the chapter, shall be construed to refer to and mean the “Board of Administration of the Public Employees' Retirement System”; however, the Controller shall continue to perform the duties prescribed in Sections 75092, 75097, 75101, and 75102.

All payments from the Judges' Retirement Fund shall be made upon warrants drawn by the Controller upon demands by the Board of Administration of the Public Employees' Retirement System.

(Added by Stats. 1978, Ch. 384, operative 7/1/79; amended by Stats. 1983, Ch. 909; and by Stats. 1986, Ch. 115.)

§ 75006. Final Payment Following Death

Any allowance payable to a retired judge or to a surviving spouse or to an eligible surviving child which has accrued and remained unpaid at the time of the judge's or

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the surviving spouse's or surviving child's death, or any unclaimed warrant issued prior to the date of death and returned to the system, shall be paid to:

(a) The survivor entitled to an allowance payable by this system.

(b) The beneficiary designated by the surviving spouse, eligible surviving child, or retired judge if there is no eligible survivor.

(c) The estate of the deceased, if there is no one entitled under subdivision (a) or (b).

(Added by Stats. 1984, Ch. 848; amended by Stats. 1988, Ch. 992.)

§ 75006.6. Final Payment Following Death—Beneficiary Designation

The surviving spouse or eligible surviving child of a deceased judge who is receiving a monthly allowance from the Judges' Retirement System, or a retired judge, if there is no spouse or eligible child, may designate a beneficiary to receive the pro rata allowance remaining payable in the month of his or her death. The designation may be made, changed or revoked at any time, provided that it is made in writing and filed with the Judges' Retirement System.

(Added by Stats. 1988, Ch. 992.)

ARTICLE 2. RETIREMENT FOR SERVICE

§ 75025. Eligibility for Benefits

Every judge who has the age and service qualifications specified in one of the following subdivisions, and who is not ineligible for retirement under Section 75026, shall be retired for service upon filing notice of retirement with the Judges' Retirement System, specifying the date upon which his or her retirement is to become effective:

(a) Age 70 or older, with an aggregate of 10 years of service as a judge within the 15 years immediately preceding the effective date of retirement.

(b) Age 69, with an aggregate of 12 years of service as a judge within the 16 years immediately preceding the effective date of retirement.

(c) Age 68, with an aggregate of 14 years of service as a judge within the 18 years immediately preceding the effective date of retirement.

(d) Age 67, with an aggregate of 16 years of service as a judge within the 20 years immediately preceding the effective date of retirement.

(e) Age 66, with an aggregate of 18 years of service as a judge within the 22 years immediately preceding the effective date of retirement.

(f) Age 65, with an aggregate of 20 years of service as a judge within the 24 years immediately preceding the effective date of retirement.

(g) Age 70 or older, with an aggregate of 20 years of service as a judge, the last five years of which has been served immediately preceding the effective date of retirement.

(h) Age 60, with an aggregate of 20 years of service as a judge.

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Upon the effective date of the retirement of any judge, the judicial office from which he or she has retired shall become vacant, and a successor shall thereupon be appointed to fill the vacancy.

(Added by Stats. 1953, Ch. 206; amended by Stats. 1957, Ch. 1060; by Stats. 1983, Ch. 395; and by Stats. 1991, Ch. 90, effective 6/30/91.)

§ 75025.1. Final Notice of Retirement

A judge whose service is discontinued by the expiration of his term of office and who is otherwise eligible to retire under this chapter may file the notice of retirement provided for in Section 75025 or an election to retire under Section 75033.5 within 90 days after such termination, which notice or election shall be effective as though filed at the close of his term. A judge whose service is discontinued by other than the expiration of his term of office and who is otherwise eligible to retire under this chapter must file the notice of retirement provided for in Section 75025 or an election to retire under Section 75033.5 prior to the effective date of his retirement, and the effective date of his retirement cannot be earlier than the date when the notice of retirement is filed with the Judges' Retirement System.

(Added by Stats. 1976, Ch. 862; amended by Stats. 1983, Ch. 395.)

§ 75026. Retirement Fund Contributions

Except as provided in Section 75029, no judge shall be eligible to retire under Section 75025 if he or she has not received a salary from which contributions for the Judges' Retirement Fund have been deducted for a period or periods aggregating at least 10 years unless, prior to the effective date of his or her retirement, he or she has paid into the Judges' Retirement Fund a sum equal to the contributions which would have been deducted from his or her salary during the period of 10 years immediately preceding the effective date of his or her retirement if he or she had received a salary subject to deduction of contributions for the Judges' Retirement Fund during all of that period, excluding any time within the 10-year period during which contributions for the Judges' Retirement Fund were actually deducted from his or her salary, any time in that period in respect to which he or she has made payment under Section 75029, and any time in that period which is included in the computation of his or her service under Section 75031. The sum payable shall be computed by applying the rate or rates of deduction applicable to judges' salaries during that time to the salary which the judge last received as the incumbent of a judicial office to which he or she was elected by the people.

(Added by Stats. 1953, Ch. 206; amended by Stats. 1989, Ch. 1417.)

§ 75027. Expiration of Term Before Minimum Age or Service

Any judge whose term of office expires within 60 days before he or she has rendered the minimum service required for retirement at his or her age shall be deemed to have rendered that minimum service.

Any judge whose term of office expires within 60 days before he or she attains the age required for his or her retirement, shall be deemed to have attained that age at any time during the 60-day period immediately preceding his or her actual attainment of that age.

(Added by Stats. 1953, Ch. 206; amended by Stats. 1989, Ch. 292.)

§ 75028. Judge Pro Tempore; Senior Judge Compensation

(a) Except as provided in Sections 75060.6, 75080, and 68543.5, any designation as a judge pro tempore or any assignment by the Chairperson of the Judicial Council shall be disregarded for purposes of this chapter. For the purposes of this chapter no person shall acquire status as a judge, nor shall any person's status as a judge be affected, by any such designation or assignment.

(b) A judge who elects to be available for full-time service on senior judge status after the effective date of retirement, shall be compensated by the state for that time at a rate equal to the full compensation of a judge of the court from which he or she retired or, at the judge's election, at a rate equal to the full compensation of a judge of the court to which he or she is assigned. A judge serving on senior judge status also shall be eligible for travel, board, and lodging expenses, as provided in Section 68543.5.

(Added by Stats. 1953, Ch. 206 § 1; amended by Stats. 1959, Ch. 744; by Stats. 1961, Ch. 681; by Stats. 1984, Ch. 1586, operative 7/1/85; and by Stats. 1988, Ch. 1310.)

§ 75028.1. Senior Judge Status: Application

(a) At the time of the filing of a notice of retirement under the Judges' Retirement Law to be effective after 69½ years of age but before the end of the term of office during which the judge attains 70 years of age, a judge may apply to the chairperson of the Judicial Council for senior judge status.

(b) A retired judge who retired under the Judges' Retirement Law before July 1, 1985, and who has attained 60 years of age, may apply to the Chairperson of the Judicial Council for senior judge status.

(c) A judge who has left office at 60 years of age or older on or after July 1, 1985, and who has 20 years or more of retirement service credit under the Judges' Retirement Law, may apply to the Chairperson of the Judicial Council for senior judge status.

(d) A judge serving on senior judge status shall serve full time as assigned for up to five consecutive years and by accepting that status waives the right to refuse any assignment as otherwise provided by law. A judge who elects to retire under

this section is deemed retired, and the judicial office from which the judge retired shall become vacant and a successor shall then be appointed to fill the vacancy.

(Added by Stats. 1984, Ch. 1586, operative 7/1/85; amended by Stats. 1988, Ch. 1310; by Stats. 1991, Ch. 90, effective 6/30/91, and Ch. 189, effective 7/27/91; and by Stats. 1992, Ch. 1032.)

§ 75028.2. Senior Judge Status: Retirement Allowance

A retired judge on senior judge status shall not receive a retirement allowance, except for health and welfare benefits generally available to judges of courts on which the judge served as an active judge.

The Controller shall administer payment of salary to retired judges on senior judge status and for making any appropriate deductions.

(Added by Stats. 1984, Ch. 1586, operative 7/1/85; amended by Stats. 1988, Ch. 544.)

§ 75028.3. Senior Judge Status: Termination of Status

Notwithstanding any other provision of law, senior judge status shall terminate at the end of five years, except that the status shall terminate earlier when any of the following occurs:

- (a) The judge on senior judge status requests termination.
- (b) The judge fails to perform service as assigned.
- (c) The Commission on Judicial Performance so orders.

(Added by Stats. 1984, Ch. 1586, operative 7/1/85; amended by Stats. 1988, Ch. 1310; by Stats. 1991, Ch. 90, effective 6/30/91; and by Stats. 1992, Ch. 1032.)

§ 75028.4. Senior Judge Status: Benefits upon Termination or Death

(a) A judge whose senior judge status is terminated may elect to receive the retirement benefits for which the judge was eligible at the time he or she elected senior judge status.

(b) If the senior judge status is terminated before the end of five years because of the judge's death, any surviving spouse benefit that is payable, as provided in the section under which the judge retired prior to electing the senior judge status, shall be paid.

(Added by Stats. 1984, Ch. 1586, operative 7/1/85; amended by Stats. 1992, Ch. 1032.)

§ 75028.5. Redeposit of Withdrawn Contributions

After a judge has withdrawn his or her accumulated contributions upon discontinuance of his or her service, that service shall not count in the event he or she later becomes a judge again, until he or she pays into the Judges' Retirement

Fund the amount of accumulated contributions withdrawn by him or her, plus interest thereon at the rate of interest then being required to be paid by members of the Public Employees' Retirement System under Section 20654 from the date of withdrawal to the date of his or her payment.

(Added by Stats. 1st Ex Sess 1962, Ch. 62, effective 5/1/62; amended by Stats. 1978, Ch. 50, effective 3/17/78; and by Stats. 2002, Ch. 664.)

§ 75028.6. Senior Judge Status: Termination of Program

The senior judge status program shall terminate on January 1, 1997. No person may elect senior judge status or exercise any of the rights thereof on or after that date, except that all persons holding senior judge status on that date may exercise the termination rights specified in Section 75028.4.

(Added by Stats. 1992, Ch. 1032.)

§ 75029. Prior Service: Judge of an Excluded Court

For any judge who, prior to becoming a judge, served as a "judge of an excluded court" as defined below, there shall be included in the computation of the number of years of service as a judge the number of years he or she served as a "judge of an excluded court" if prior to the effective date of his or her retirement he or she has paid into the Judges' Retirement Fund a sum equal to the amount that would have been deducted from his or her salary and paid into that fund had he or she been a judge, during the time he or she was a "judge of an excluded court," computed by applying to the rate of salary that he or she actually received during his or her first year of service as a judge the rate of deduction applicable to judges' salaries during that year.

As used in this section "judge of an excluded court" means a judge of a justice court or a judge, justice of the peace, or recorder of a court provided for by law prior to January 1, 1952.

A judge shall not, under this section, receive credit for that portion, if any, of his or her service as a judge of an excluded court, if other provisions of this chapter provide for the inclusion of that service in the computation of his or her years of service as a judge.

(Added by Stats. 1953, Ch. 206; amended by Stats. 1957, Ch. 2149; and by Stats. 2002, Ch. 664.)

§ 75029.1. Prior Service: Judge of an Excluded Court after 1/1/90

On and after January 1, 1990, the right to elect to receive credit for prior service as a judge of an excluded court pursuant to Section 75029 shall apply only to a justice of the Supreme Court or a court of appeal or a judge of a superior or municipal court.

(Added by Stats. 1989, Ch. 1417.)

§ 75029.2. Repealed

(Repealed by Stats. 1994, Ch. 235.)

§ 75029.5. Prior Service: Justice Court Judge

Notwithstanding any other provision of law, any justice court judge who was a member of the Public Employees' Retirement System on December 31, 1989, and became a member of this system on January 1, 1990, pursuant to Chapter 1417 of the Statutes of 1989, may irrevocably elect to be restored to membership in the Public Employees' Retirement System effective January 1, 1990. The board shall provide the affected members with an election period commencing on July 1, 1992, and ending on September 30, 1992.

Any justice court judge who elects membership in the Public Employees' Retirement System pursuant to this section shall be refunded his or her accumulated contributions in this system for the period January 1, 1990, through the date of election and deposit in the Public Employees' Retirement Fund the amount required by that system.

(Added by Stats. 1992, Ch. 176, effective 7/13/92.)

§ 75030. Repealed

(Repealed by Stats. 1959, Ch. 597.)

§ 75030.5. Prior Service: State Constitutional Officer or Legal Public Officer

Any judge who first becomes a judge on or after May 1, 1962, and who has served as an elected state constitutional officer before becoming a judge, or any judge who first became a judge prior to that date who has served as a constitutional officer or as a public legal officer before becoming a judge, has a right to elect, by written election filed with the Judges' Retirement System at any time prior to retirement, to make contributions pursuant to this section for, and receive credit in this system as, service for all or any part of the time he or she served as that officer, excluding any period of time for which the judge is receiving, or is entitled to receive, a retirement allowance from any other public retirement system.

As used in this chapter, the term "elected state constitutional officer" means the holder of the office of Member of the Senate or Assembly, Governor, Lieutenant Governor, Secretary of State, Controller, Treasurer, Attorney General, Superintendent of Public Instruction, or member of the State Board of Equalization.

As used in this chapter, the term "constitutional officer" means the holder of an office created by the California Constitution, and "public legal officer" means the holder of any legal office of the state or any agency of the state or of any county or

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city in the state who is paid a salary or other fixed regular compensation and who is admitted and licensed to practice law in the State of California during the time of holding the office and whose principal duties in the office are legal in nature, such as the Attorney General, Legislative Counsel, Commissioner of Corporations, a district attorney, county counsel, city attorney, city prosecutor, public defender, or a deputy of any such office, or a secretary to the Governor whose duties include the hearing of extradition matters, admitted and licensed to practice law in the State of California during the time of holding the office and whose principal duties in the office are legal in nature.

Every judge electing to receive credit for service pursuant to this section shall at the time of filing his or her election, and as a condition to receiving that credit, pay into the Judges' Retirement Fund a sum equal to the amount which would have been deducted from his or her salary and paid into that fund pursuant to Section 75102 had he or she been a judge during the time for which he or she elects to receive credit for service, computed by applying the rates of deduction applicable to judges' salaries during that time to the rate of salary the judge actually received during the first year as a judge, plus interest at 3 percent a year, to the date of his or her payment, upon the amounts of the deductions and from the respective dates they would have been paid had he or she been a judge during the time for which he or she elects to receive credit for service. The amount and interest shall be determined by the Judges' Retirement System in accordance with this section. Funds transferred to the Judges' Retirement Fund pursuant to Section 9356.5 shall be deducted from the payment. Any funds so transferred which are in excess of the amount required by this section shall be refunded to the judge.

This section shall not apply to any person who, on or after January 1, 1986, first becomes or continues as an elected state constitutional officer, in a term which commences on or after January 1, 1986.

(Added by Stats. 1957, Ch. 2168; amended by Stats. 1959, Ch. 2186; by Stats. 1961, Ch. 2135; by Stats. 1st Ex Sess 1962, Ch. 62, effective 5/1/62; by Stats. 1980, Ch. 1213; by Stats. 1985, Ch. 1359; by Stats. 1986, Ch. 115; and by Stats. 1987, Ch. 56.)

§ 75030.6. Prior Service: Minimum Current Service

On and after October 1, 1961, the right to elect to receive credit for service pursuant to Section 75030.5 shall apply only to a judge who has served as a judge as defined by Section 75002 for at least six years or who is elected to the office of judge as defined by Section 75002. This section shall not apply to any judge who is a member of this system on September 30, 1961, or to any person who, on or after January 1, 1986, first becomes or continues as an elected state constitutional officer, as defined by Section 75030.5, in a term which commences on or after January 1, 1986.

(Added by Stats. 1961, Ch. 1773; amended by Stats. 1985, Ch. 1359.)

§ 75030.7. Prior Service: Federal Judicial Officer

Any judge has a right to elect, by written election filed with the Judges' Retirement System at any time prior to retirement, to make contributions pursuant to this section for, and receive service credit in this system for all of the time he or she served as a federal judicial officer, excluding any period of time for which the judge is receiving, or is entitled to receive, a retirement allowance from any other public retirement system.

As used in this section, the term "federal judicial officer" means federal justice, federal judge, and federal magistrate judge.

Every judge electing to receive credit for service pursuant to this section shall at the time of filing his or her election, pay into the Judges' Retirement Fund a sum equal to actuarial present value of the increase in benefit due to the additional service. The amount shall be determined by the Judges' Retirement System in accordance with this section.

(Added by Stats. 1998, Ch. 996.)

§ 75030.8. Prior Service: Subordinate Judicial Officer

(a) A judge may elect, by written election filed with the board at any time prior to retirement, to make contributions and receive service credit for all of the time he or she served as a full-time subordinate judicial officer, as defined in Section 71601, prior to becoming a judge, excluding any period of time for which the judge is receiving, or is entitled to receive, a retirement allowance from any other public retirement system.

(b) A judge electing to receive credit for service pursuant to subdivision (a) shall, at the time of filing his or her election, pay to the Judges' Retirement Fund, a sum equal to the actuarial present value of the increase in benefits due to the additional service. The amount shall be determined by the Judges' Retirement System in accordance with this section.

(Added by Stats. 2001, Ch. 433; renumbered by Stats. 2003, Ch. 10, effective 5/14/03.)

§ 75030.9. Legislator Not Returned to Office: Elected Constitutional or Legal Officer

A Member of the Senate or Assembly whose contributions as a judge remain on deposit in the fund under Section 75033, shall, during the term of office for which he or she was elected:

(a) Have a right under Section 75030.5 to elect by written election filed with the Judges' Retirement System at any time prior to his or her retirement, to make contributions pursuant to Section 75030.5 and to receive credit in this system as service rendered for all or any part of his or her service as an elected state constitutional officer, or as a public legal officer, as defined in Section 75030.5,

either before or after his or her service as a judge, excluding any period of time for which he or she is receiving or is entitled to receive a retirement allowance from any other public retirement system. This subdivision does not apply to any person who, on or after January 1, 1986, first becomes or continues as an elected state constitutional officer, as defined by Section 75030.5, in a term which commences on or after January 1, 1986.

(b) Be retired as a judge under Section 75025 upon attaining, as provided in this section, the age and service requirements specified in that section.

For the purposes of this section, "service as an elected state constitutional officer" includes all or any portion of the term of office for which he or she was duly elected as an elected state constitutional officer as specified by law at the time of his or her election.

(Added by Stats. 1968, Ch. 909; amended by Stats. 1985, Ch. 1359; by Stats. 1986, Ch. 115; and by Stats. 2002, Ch. 664.)

§ 75030.10. Public Legal Officer

Any person who filed a declaration of candidacy for a judicial office pursuant to Section 8023 or 8201 of the Elections Code prior to May 1, 1962, and was elected to that office at the subsequent election, may elect pursuant to the provisions of Section 75030.5 to make contribution for, and receive credit in this system as service, time served as a public legal officer as defined in Section 75030.5. The contributions authorized by this section shall be made at the rate provided in Section 75102 on the effective date of this section.

(Added by Stats. 1970, Ch. 314; amended by Stats. 1994, Ch. 923.)

§ 75031. Absence for Military Service

In computing the number of years a person has been a judge for the purposes of retirement under Sections 75025 or 75060, there shall be included any time as he or she was absent from his or her position as judge by reason of service with the armed forces of the United States during a war involving the United States as a belligerent or in any other national emergency, and for six months thereafter.

This section shall be retroactively applied to extend its benefits to all judges who served in the military service in time of war, including the period September 16, 1940, to December 7, 1941, and who return or have returned to their positions upon the termination of their military service or within six months thereafter. The provisions of this section apply to any person who resigned judicial office to enter military service in time of national emergency declared by the President prior to the authorization by law of military leave, if he or she returned to judicial office within 90 days after his or her separation from military service.

(Added by Stats. 1953, Ch. 206; amended by Stats. 2002, Ch. 664.)

§ 75031.5. Credit for Military Service

(a) A judge may elect, in writing filed with the Judges' Retirement System, to make contributions and receive service credit in this system for active service, performed prior to entering the system, of not less than one year in the Armed Forces of the United States or not less than one year in the Merchant Marine of the United States prior to January 1, 1950, excluding any period of that active service for which the judge is receiving, or is entitled to receive, a retirement allowance from any other retirement system supported wholly or in part by public funds. The service credit for that service may be granted on the basis of one year of credit for each year of credited service in this system, but may not exceed a total of four years of service credit regardless of the number of years of either that service or subsequent judicial service. A judge electing to receive credit for that service shall have at least one year of judicial service credited on the date of election or the date of retirement. If the service described in this subdivision terminated with a dishonorable discharge, service credit in the system may not be granted under this section.

(b) For purposes of this section, a judge means a judge as defined in Section 75002 or a judge who has retired pursuant to Section 75025 or has elected a deferred retirement subject to Section 75033.5.

(c) The retirement allowance of a retired judge who elects to receive service credit pursuant to this section shall be increased only with respect to the allowance payable on and after the date of election.

(d) A judge who elects to receive credit for service pursuant to this section shall contribute to the Judges' Retirement Fund a sum equal to the actuarial present value of the increase in benefits due to the additional service, as determined by the chief actuary and approved by the board.

(e) An election by a judge to receive credit for service under this section shall be effective only if accompanied by a lump-sum payment or an authorization for payment, other than a lump-sum payment, in accordance with regulations adopted by the board.

(Added by Stats. 2004, Ch. 231.)

§ 75032. Allowance: Over Age 70

Every judge who has retired or who retires pursuant to Section 75025 before or after September 11, 1957, shall, during the remainder of his or her life, receive an allowance equal to one-half the salary payable, at the time payment of the allowance falls due, to the judge holding the judicial office to which he or she was last appointed or elected by the people. The allowance shall be paid by the state at the times and in the manner provided for the payment of salaries of justices of the Supreme Court.

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This amendment to this section enacted by the Legislature at its 1957 Regular Session does not give any retired judge a claim against the state for any increase in retirement allowance or other benefit for time prior to September 11, 1957.

(Added by Stats. 1953, Ch. 206; amended by Stats. 1953, Ch. 1592; by Stats. 1957, Ch. 1980; and by Stats. 1986, Ch. 115.)

§ 75032.5. Deduction for Group Life Insurance

Retired judges, and beneficiaries, who are entitled to receive allowances under the provisions of this chapter, may authorize deductions to be made from their retirement allowance payments, in accordance with regulations established by the Controller for payment of group life insurance premiums for a group life insurance plan approved by the Director of Finance.

(Added by Stats. 1963, Ch. 1627.)

§ 75033. Termination of Service Prior to Minimum Time

Notwithstanding any other provision of this chapter, if the service of a judge, who has been elected or appointed as such, is discontinued by any means other than death, resignation, recall, impeachment, or retirement pursuant to this chapter, he or she shall have the right to elect in writing filed with the Judges' Retirement System within 90 days thereafter, and without right of revocation, whether to allow his or her accumulated contributions to remain in the fund. A judge who after the effective date of the 1972 amendments to this section leaves his or her office to accept any lucrative office under the United States within the purview of Section 7 of Article VII of the California Constitution shall not be eligible for deferred retirement under this section. Failure to make the election shall be deemed an irrevocable election to withdraw his or her accumulated contributions. A judge who so elects to allow his or her accumulated contributions to remain in the fund shall, upon his or her application therefor to the Judges' Retirement System be retired, and after attaining age 65 receive a retirement allowance based upon the judicial service with which he or she is credited, in the same manner as other judges, except that his or her retirement allowance is an annual amount equal to 5 percent of the compensation payable, at the time payments of the allowance fall due, to the judge holding the office that the retired judge last held prior to the discontinuance of his or her service as judge, multiplied by the number of years and fractions of years of service with which the retired judge is entitled to be credited at the time of such discontinuance of his or her service, not to exceed eight years.

This section does not apply to any person who becomes a judge after January 1, 1974.

The amendments to this section during 1977 are also applicable to persons who elected to allow their accumulated contributions to remain in the fund prior to January 1, 1978.

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(Added by Stats. 1953, Ch. 1592; amended by Stats. 1957, Ch. 315; by Stats. 1961, Ch. 1824; by Stats. 1972, Ch. 582; by Stats. 1973, Ch. 1102; by Stats. 1977, Ch. 311; by Stats. 1983, Ch. 395; by Stats. 1986, Ch. 115; and by Stats. 2002, Ch. 664.)

§ 75033.1. Removal from Office

Any judge who is removed from office by the Supreme Court shall not receive any of the benefits provided by Section 75033. The amount of his accumulated contributions shall be paid to him by the Judges' Retirement System.

This section shall be applicable only to a person who becomes a judge after the effective date of this section.

(Added by Stats. 1971, Ch. 1316; amended by Stats. 1986, Ch. 115.)

§ 75033.2. Loss of Benefits for Commission of Felony

A judge who pleads guilty or no contest or is found guilty of a crime committed while holding judicial office which is punishable as a felony under California or federal law and which either involves moral turpitude under that law or was committed in the course and scope of performing the judge's duties, and the conviction becomes final shall not receive any benefits from the Judges' Retirement System, except that the amount of his or her accumulated contributions shall be paid to him or her by the Judges' Retirement System.

(Added by Stats. 1988, Ch. 993.)

§ 75033.5. Deferred Retirement

Notwithstanding any other provision of this chapter, any judge with at least five years of service, may retire, and upon his or her application therefor to the Judges' Retirement System after reaching the age which would have permitted him or her to retire for age and length of service under Section 75025 had he or she remained continuously in service as a judge up to that age, receive a retirement allowance based upon the judicial service as a judge of a court of record, with which he or she is credited, in the same manner as other judges, except as otherwise provided by this section the retirement allowance is an annual amount equal to 3.75 percent of the compensation payable, at the time payments of the allowance fall due, to the judge holding the office which the retired judge last held prior to his or her discontinuance of his or her service as judge, multiplied by the number of years and fractions of years of service with which the retired judge is entitled to be credited at the time of his or her retirement, not to exceed 20 years.

A judge of a justice court who renders part-time service after January 1, 1990, shall receive a reduced retirement allowance based upon actual service rendered.

If a judge has served more than five years but less than 12 years, the above percentage of compensation payable shall be reduced 0.25 percent for each year that the service of the judge is less than 12 years. For the purposes of calculating

the percentage of compensation payable, part-time service shall be the equivalent of full-time service.

No judge shall be eligible to receive an allowance pursuant to this section until the attainment of at least age 63 unless the judge is credited with 20 years of judicial service and has attained age 60.

The surviving spouse of any judge who has so elected to retire under this section shall receive for life an allowance equal to one-half of the retirement allowance that would be payable to the judge were he or she living and receiving the benefits accorded by this section, commencing with the day following the date of the death, if the judge dies after commencement of receipt of benefits, or the date the judge would have been able to commence receipt of benefits but for his or her death, if his or her death occurs prior to commencement of receipt of benefits.

An election to retire under this section shall be made in writing and filed with the Judges' Retirement System, and shall be without right of revocation, and upon that filing the judge shall be deemed retired with receipt of benefits deferred until herein provided, and the judicial office from which he or she has retired shall become vacant. The notice and election of retirement shall be sufficient if it states in substance that the judge elects to retire under the benefits of this section.

A judge who leaves his or her office prior to July 21, 1997, to accept any lucrative office under the United States within the purview of Section 7 of Article VII of the Constitution shall have any benefits receivable hereunder reduced by the amount of any salary or retirement benefits he or she receives by virtue of his or her service in that office. This paragraph shall not apply to any judge who left office on or after July 21, 1997.

(Added by Stats. 1973, Ch. 1102; amended by Stats. 1982, Ch. 1639, Ch. 1640; by Stats. 1984, Ch. 848; by Stats. 1986, Ch. 115; by Stats. 1988, Ch. 992; by Stats. 1989, Ch. 1417; by Stats. 1991, Ch. 90, effective 6/30/91, and Ch. 189, effective 7/27/91; and by Stats. 1998, Ch. 212.)

§ 75033.6. Deferred Retirement Subject to Nonmember Account

If a judge retires pursuant to Section 75033 or 75033.5 and there has been a community property benefit awarded to the judge's ex-spouse pursuant to Article 2.5 (commencing with Section 75050), the retirement allowance percentage payable to the judge shall be calculated at the rate specified in Section 75033 or 75033.5 less the percentage factor awarded to the ex-spouse. In no instance, regardless of the total number of years of credited service in the Judges' Retirement System, shall the retirement allowance percentage awarded the judge, when combined with the percentage awarded the ex-spouse, exceed the maximum amount allowable under the pertinent section under which the judge retired.

(Added by Stats. 1989, Ch. 1379.)

§ 75034. Repealed

(Repealed by Stats. 1986, Ch. 115.)

Note: The text of former Section 75034 follows:

§ 75034. Redeposit of Withdrawn Contributions

Notwithstanding any other provision of this chapter, if the service of a judge, who has been elected as such by vote of the people, has been discontinued by any means other than death, resignation, recall, impeachment, or retirement pursuant to this chapter, and who withdrew his accumulated contributions prior to September 9, 1953, he may within one year after October 1, 1961, pay into the Judges' Retirement System a sum equal to the amount withdrawn plus interest thereon at the rate of 6 percent per annum from the date of withdrawal to the date of payment. A judge who makes such payment as in this section provided shall, upon his application therefor to the State Controller after attaining age 60, or after making said payment, whichever event last occurs, be retired, and receive a retirement allowance based upon the judicial service with which he is credited, in the same manner as other judges, except that his retirement allowance is an annual amount equal to 5 percent of the compensation payable, at the time payments of the allowance fall due, to the judge holding the office which the retired judge last held prior to the discontinuance of his service as judge, multiplied by the number of years and fractions of years of service with which the retired judge is entitled to be credited at the time of such discontinuance of his service, not to exceed eight years.

No person, who was on January 1, 1961, drawing a retirement allowance from any public retirement system of this state, shall be eligible for retirement under this section.

(Added by Stats. 1957, Ch. 1869; amended by Stats. 1961, Ch. 1630; and by Stats. 1967, Ch. 853.)

§ 75034.1. Repealed

(Repealed by Stats. 2004, Ch. 231.)

Note: The text of former Section 75034.1 follows:

§ 75034.1. Surviving Spouse Benefits

The surviving spouse of a judge who qualifies, as prescribed in Section 75034, to receive the benefits accorded by that section and who dies during retirement shall receive, until death or remarriage, an allowance equal to 37 ½ percent of the retirement allowance that would be payable to the judge were he living and receiving the benefits accorded by Section 75034.

(Added by Stats. 1970, Ch. 1136.)

§ 75035. "Resignation"

"Resignation," as used in this article, does not include a resignation, express or implied, which is for the purpose of accepting an elective or appointive public office.

(Added by Stats. 1967, Ch. 853.)

§ 75036. Repealed

(Repealed by Stats. 1986, Ch. 115.)

ARTICLE 2.5. COMMUNITY PROPERTY

§ 75050. Nonmember: Rights

(a) Upon the legal separation or dissolution of marriage of a member, the court shall include in the judgment or a court order the date on which the parties separated.

(b) If the court orders the division of the community property interest in the system pursuant to paragraph (3) of subdivision (a) of Section 2610 of the Family Code, the accumulated contributions and service credit attributable to periods of service during the marriage shall be divided into two separate and distinct accounts in the name of the member and nonmember, respectively. Any service credit or accumulated contributions which are not explicitly awarded by the judgment or court order shall be deemed the exclusive property of the member.

(c) Upon receipt of the court order separating the account of the member and the nonmember pursuant to this section, the board shall determine the rights of the nonmember, taking into consideration the court order and the account of the member. These rights may include the following:

(1) The right to a retirement allowance.

(2) The right to a refund of accumulated retirement contributions.

(3) The right to redeposit accumulated contributions which are eligible for redeposit by the member under Section 75028.5.

(4) The right to purchase service credit which is eligible for purchase by the member under Sections 75029 to 75030.5.

(5) The right to designate a beneficiary to receive his or her accumulated contributions payable where death occurs prior to retirement.

(6) The right to designate a beneficiary for any unpaid allowance payable at the time of the nonmember's death.

(d) In the capacity of nonmember, the nonmember shall not be entitled to any disability retirement allowance.

(Added by Stats. 1989, Ch. 1379; amended by Stats. 1992, Ch. 163 (Ch. 176 prevails); Ch. 176, effective 7/11/92; by Stats. 1993, Ch. 219; and by Stats. 1998, Ch. 485 and Ch. 932.)

§ 75051. "Nonmember"

"Nonmember," as used in this article, means the spouse or former spouse of a member, who as a result of petitioning the court for the division of community property, has been awarded a distinct and separate account reflecting specific credited service and accumulated contributions.

(Added by Stats. 1989, Ch. 1379.)

§ 75052. Nonmember: Refunds

(a) The nonmember who is awarded a separate account shall have the right to a refund of accumulated retirement contributions in the separate account of the nonmember.

(b) The nonmember shall file an application on a form provided by the system to obtain the refund.

(c) The refund is effective when the system deposits in the United States mail an initial warrant drawn in favor of the nonmember and addressed to the latest address for the nonmember on file in the system.

(d) The nonmember is deemed to have permanently waived all rights in the system and all rights to any future retirement benefits pertaining to the service credit, accumulated contributions, or both, when the refund becomes effective.

(e) The nonmember may not cancel a refund once the refund has become effective.

(f) The nonmember shall have no right to elect to redeposit the refunded accumulated contributions from the nonmember's account after the refund is effective, and shall have no right to redeposit under Section 75028.5, or to purchase service credit under Section 75029 or Section 75030.5.

(g) If at the time the parties separate, the member does not have the necessary minimum credited service to retire, the nonmember shall receive a refund of the accumulated contributions placed in the nonmember's account. "Minimum credited service" means at least five years of service credit under the Judges' Retirement System.

(Added by Stats. 1989, Ch. 1379.)

§ 75052.2. Nonmember: Redeposit of Refund by Member

If the nonmember withdraws accumulated contributions in accordance with Section 75052, the member may redeposit those contributions pursuant to this part.

(Added by Stats. 1991, Ch. 892, effective 10/12/91.)

§ 75053. Nonmember: Redeposit

(a) The nonmember who is awarded a separate account may redeposit accumulated contributions previously refunded to the member in accordance with the determination of the court required by Section 75050.

(b) The nonmember may redeposit only those accumulated contributions which were previously refunded to the member and which the court has determined to be the community property interest of the nonmember in the accumulated retirement contributions.

(c) If the nonmember elects to redeposit, he or she shall repay the accumulated contributions pursuant to Section 75028.5.

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(d) An election to redeposit shall be considered an election to repay all accumulated contributions previously refunded that the nonmember is entitled to redeposit.

(e) The right of the nonmember spouse to redeposit is subject to the regulations of the Board of Administration of the Public Employees' Retirement System which administers the Judges' Retirement System.

(f) The member has no right to redeposit the share of the nonmember in the previously refunded accumulated contributions whether or not the nonmember elects to redeposit. However, any right to redeposit previously refunded accumulated contributions not explicitly awarded to the nonmember by the judgment or court order shall be deemed the exclusive property of the member.

(g) If the nonmember elected to redeposit upon retirement and has subsequently died, prior to completing the redeposit, the board shall file a claim against the estate of the decedent to recover benefit payments which exceeded those for which payment was made.

(Added by Stats. 1989, Ch. 1379.)

§ 75054. Nonmember: Purchase of Service Credit

(a) The nonmember shall have the right to purchase service credit pursuant to the determination of the court required by Section 75050.

(b) The nonmember may purchase only that service credit which the court, pursuant to Section 75050 has determined to be the community property interest of the nonmember spouse.

(c) If the nonmember elects to purchase service credit, he or she shall pay, prior to retirement the contributions and interest required.

(d) The nonmember shall have no right to purchase service credit after the effective date of a refund of the accumulated contributions in the separate account of the nonmember.

(e) The member has no right to purchase the community property interest of the nonmember in the service credit whether or not the nonmember elects to purchase the service credit. However, any service credit eligible for purchase that is not explicitly awarded to the nonmember by the judgment or court order shall be deemed the exclusive property of the member.

(f) If the nonmember elected to purchase service credit upon retirement and has subsequently died, prior to completing the purchase, the board shall file a claim against the estate of the deceased to recover benefit payments which exceeded those for which payment was made.

(Added by Stats. 1989, Ch. 1379.)

§ 75055. Nonmember: Eligibility for Retirement

A nonmember shall be retired upon his or her written application to the board if all of the following conditions are met:

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(a) The nonmember has attained the age of 50.

(b) On the date the parties separated, the member had at least five years' credited service, as defined by Section 75004.

(c) On the date of application of the nonmember, the member is eligible to retire and receive an allowance as provided in Section 75025, 75032, 75033, or 75033.5.

(Added by Stats. 1989, Ch. 1379; amended by Stats. 1992, Ch. 176, effective 7/11/92.)

§ 75056. Nonmember: Effective Retirement Date

Retirement shall be effective and the retirement allowance shall begin to accrue as of the date designated in the nonmember's application as the effective date of retirement, or the day following the date of the court order dividing the community property of the member and nonmember, if later. In no event shall the retirement become effective or the retirement allowance begin to accrue earlier than the first day of the month in which the nonmember's application is received at an office of the board or by an employee of the system designated by the board, or, if the nonmember has been incompetent to act on his or her own behalf continuously from the date of dissolution or legal separation, one year prior to the month in which an application by the guardian of his or her estate is so received. An application for retirement may only be filed by or for a nonmember who is living on the date the application is actually received by this system.

(Added by Stats. 1989, Ch. 1379.)

§ 75057. Nonmember: Allowance based on Salary Payable

For a nonmember, the retirement allowance shall be based on the salary payable, at the time payment of the allowance falls due, to the judge holding the judicial office to which the member judge was last appointed or elected, or from which the member is eligible to retire.

(Added by Stats. 1989, Ch. 1379; amended by Stats. 1992, Ch. 176, effective 7/11/92.)

§ 75058. Nonmember: Allowance based on Service and Benefit Factor

(a) A nonmember shall be entitled to a retirement allowance based on service accrued by the judge during their years of marriage and in accordance with the community property settlement. The retirement allowance percentage to the nonmember shall be calculated based upon the applicable percentages available to the judge at the time he or she becomes eligible to retire and to receive an allowance, multiplied by the number of years and fraction of years of service specified in the court order, not to exceed 20 years.

(b) If the nonmember chooses to retire before attaining age 60, his or her percent of salary shall be reduced by an additional 2 percent for each year by which the nonmember's age at the time of retirement is below age 60.

(Added by Stats. 1992, Ch. 176, effective 7/11/92.)

§ 75059. Former Spouse Allowance

(a) Upon the legal separation or dissolution of marriage of a retired member, the court shall include in a judgment or court order the date on which the parties separated.

(b) If the court orders the division of the community property interest in the system pursuant to paragraph (4) of subdivision (a) of Section 2610 of the Family Code, the retirement allowance payable to the member attributable to periods of service during the marriage shall be irrevocably divided into two separate and distinct payments in the names of the member and nonmember former spouse, respectively. Benefits under this section shall be based on the actuarial equivalent of the member's retirement allowance as of the effective date of the order dividing the benefit. The share of the actuarially reduced monthly allowance payable to the former spouse pursuant to that division shall be a lifetime benefit, and the former spouse shall have the right to designate a beneficiary for any unpaid allowance payable at the time of his or her death.

(c) Any retirement allowance not explicitly awarded by the judgment or court order shall be deemed the exclusive property of the member.

(d) Any survivor benefits payable to any eligible surviving spouse of a retired member whose allowance was reduced under this section shall be based solely on the reduced allowance.

(Added by Stats. 2000, Ch. 988.)

§ 75059.1. Former Spouse Payment

(a) A former spouse of a judge retired or deceased as of January 1, 2001, shall be eligible for the benefits provided by this section if the community property interest in the system was divided by court order pursuant to paragraph (4) of subdivision (a) of Section 2610 of the Family Code, the former spouse retained an interest in the system, and the parties did not divide the member's account pursuant to Section 75050. The monthly allowance payable pursuant to that division to the former spouse shall be a lifetime benefit and the former spouse shall have the right to designate a beneficiary for any unpaid allowance payable at the time of his or her death.

(b) The section shall apply retroactively to establish eligibility for a former spouse to the benefits provided by this section, but any payment made to the former spouse shall be prospective and shall commence no earlier than (1) the first day of the month in which the application was received by the system in those cases where the member is deceased, or (2) the first day of the month in which a valid court order is received in cases where the retired judge is still living.

(c) The board has no duty to locate or notify the members or former spouses who may be eligible to apply for the benefits under this section.

(d) The benefits provided by this section shall be applicable to persons otherwise eligible who notify the system in writing prior to January 1, 2002.

(Added by Stats. 2000, Ch. 988; amended by Stats. 2001, Ch. 159.)

ARTICLE 3. DISABILITY RETIREMENT

§ 75060. Disability Eligibility Requirements

(a) Any judge who is unable to discharge efficiently the duties of his or her office by reason of mental or physical disability that is or is likely to become permanent may, with his or her consent and with the approval of the Chief Justice or Acting Chief Justice and the Commission on Judicial Performance, be retired from office. The consent of the judge shall be made on a written application to the Commission on Judicial Performance. The retirement shall be effective upon approval by the designated officers, except as provided in subdivision (b). A certificate evidencing the approval shall be filed with the Secretary of State. Upon the filing of the certificate, a successor shall be appointed to fill the vacancy.

(b) Any judge who dies after executing an application evidencing his or her consent that has been received in the office of the commission and before the approval of both of the designated officers has been obtained shall be deemed to have retired on the date of his or her death if the designated officers, prior to the filling of the vacancy created by the judge's death, file with the Secretary of State their certificate of approval.

(c) No retirement under this section may be approved unless a written statement by a physician or psychiatrist that he or she has personally examined the judge applying for retirement under this section and that he or she is of the opinion that the judge is unable to discharge efficiently the duties of the judge's office by reason of a mental or physical disability that is or is likely to become permanent is presented to the persons having the responsibility to approve or disapprove the retirement.

(Added by Stats. 1953, Ch. 206; amended by Stats. 1959, Ch. 364; by Stats. 1961, Ch. 681; by Stats. 1st Ex Sess 1962, Ch. 61, effective 5/1/62; by Stats. 1967, Ch. 17 and Ch. 1049; by Stats. 1982, Ch. 454 and Ch. 1639; and by Stats. 1987, Ch. 56.)

§ 75060.1. Disability Retirement Allowance

Notwithstanding any provision of law to the contrary, every judge retired for disability before or after the effective date of this section shall receive a retirement allowance in an amount that he or she would have received had he or she retired after the effective date of this section. This section does not give any retired judge

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a claim against the state for any increase in retirement allowance or other benefit for time prior to the effective date of this section.

(Added by Stats. 1957, Ch. 1980; amended by Stats. 2002, Ch. 664.)

§ 75060.2. Repealed

(Repealed by Stats. 1986, Ch. 115 § 12.)

§ 75060.3. Repealed

(Repealed by Stats. 2001, Ch. 745, effective 10/12/01.)

Note: The text of former Section 75060.3 follows:

§ 75060.3. Commission on Judicial Performance—Annual Report

(a) The Commission on Judicial Performance shall annually submit to the Governor and the Legislature a report on the incidence of ordered, requested, and granted disability retirements in the preceding fiscal year.

(b) The report shall include the following:

(1) The number of years the affected judges have served as a judge on the date of receipt of the application for disability retirement and on the effective date of the disability retirement.

(2) The age of the judge on the date of receipt of the application for disability retirement and on the effective date of his or her disability retirement.

(3) The physical or mental impairment which was the basis for the application by the judge for disability retirement, for the granted disability retirement, or for the ordered disability retirement, using the following categories to describe these impairments:

(A) Orthopedic.

(B) Psychological.

(C) Cardio-vascular.

(D) Internal.

(E) Neurological.

(F) Other.

(4) Any other information deemed relevant by the Commission on Judicial Performance.

(Added by Stats. 1989, Ch. 427.)

§ 75060.4. Repealed

(Repealed by Stats. 1961, Ch. 681.)

§ 75060.5. Effect of Section 75061 Repeal

Every judge retired under Section 75060, who on the ninetieth day after the final adjournment of the 1957 Regular Session of the Legislature is receiving a retirement allowance computed pursuant to Section 75061, shall, notwithstanding the repeal of Section 75061, continue to receive such allowance pursuant to the

terms of Section 75061 as if such section were not repealed and shall not receive the retirement allowance provided for by Section 75060.6.

(Added by Stats. 1957, Ch. 2065.)

§ 75060.6. Recovery from Disability

The Commission on Judicial Performance, in its discretion, but not more often than once every two years, may require any judge who is receiving an allowance under this section and who is under the age of 65 years to undergo medical examination. The examination shall be made by one or more physicians or surgeons, appointed by the Commission on Judicial Performance, at the place of residence of the judge or other place mutually agreed upon. Upon the basis of the examination the commission shall determine whether he or she is still incapacitated, physically or mentally, for service as a judge. If the commission determines, on the basis of the results of the medical examination, that he or she is not so incapacitated, he or she shall be a judicial officer of the state, but shall not exercise any of the powers of a justice or judge except while under assignment to a court by the Chairman of the Judicial Council. The allowance of the judge shall cease if he or she refuses an assignment while he or she is not so incapacitated. The provisions of Section 68543.5 are applicable to such a judge. The provisions of this section and of Section 75060 are applicable to all judges of courts of record in this state.

(Added by Stats. 1957, Ch. 2065; amended by Stats. 1961, Ch. 681 and Ch. 2075; by Stats. 1982, Ch. 454; by Stats. 1983, Ch. 395; and by Stats. 1988, Ch. 992 and Ch. 993.)

§ 75061. Service Requirement for Disability

(a) Any person who becomes a judge during the period of January 1, 1980, through December 31, 1988, shall not be eligible to be retired for disability unless the judge is credited with at least two years of judicial service or unless the disability is a result of injury or disease arising out of and in the course of judicial service.

(b) Any person who becomes a judge on or after January 1, 1989, shall not be eligible to be retired for disability unless the judge is credited with at least four years of judicial service or unless the disability is a result of injury or disease arising out of and in the course of judicial service.

(Added by Stats. 1979, Ch. 709; amended by Stats. 1988, Ch. 993; and by Stats. 1989, Ch. 986.)

§ 75062. Disability Application: Effect of Commission of a Crime

A judge who applies for disability retirement and against whom there is pending a criminal charge of the commission of, or who has been convicted of, a

felony under California or federal law (allegedly committed or committed while holding judicial office), prior to the approval of the application:

(a) Shall be presumed not to be disabled and this presumption is a presumption affecting the burden of proof.

(b) Shall, in a disability retirement proceeding before the commission, be subject to the standard of proof of clear and convincing evidence sufficient to sustain a claim to a reasonable certainty.

(c) Shall support the application with written statements described in subdivision (c) of Section 75060 from each of at least two physicians or two psychiatrists.

(Added by Stats. 1988, Ch. 993.)

§ 75063. Disability Application: Effect of Disciplinary Proceeding

A judge against whom there is pending a disciplinary proceeding which could lead to his or her removal from office or who has been removed from office for judicial misconduct, prior to the approval of his or her application for disability retirement:

(a) Shall be presumed not to be disabled and this presumption is a presumption affecting the burden of proof.

(b) Shall, in a disability retirement proceeding before the commission, be subject to the standard of proof of clear and convincing evidence sufficient to sustain a claim to a reasonable certainty.

(c) Shall support the application with written statements described in subdivision (c) of Section 75060 from each of at least two physicians or two psychiatrists.

(Added by Stats. 1988, Ch. 993.)

§ 75064. Disability Application: Effect of Election Defeat

A member who is defeated at an election and who either had submitted, prior to the date of the election, an application for disability retirement or submits, on or after the date of the election, an application for disability retirement:

(a) Shall be presumed not to be disabled and this presumption is a presumption affecting the burden of proof.

(b) Shall, in a disability retirement proceeding before the commission, be subject to the standard of proof of clear and convincing evidence sufficient to sustain a claim to a reasonable certainty.

(c) Shall support the application with written statements described in subdivision (c) of Section 75060 from each of at least two physicians or two psychiatrists.

(Added by Stats. 1988, Ch. 993.)

ARTICLE 3.5. PAYMENT OF BENEFITS

§ 75070. Optional Settlement Election

In lieu of the retirement allowance for his life alone, a judge may elect, or revoke or change a previous election prior to the approval of the previous election, to have the actuarial equivalent of his retirement allowance as of the date of retirement applied to a lesser retirement allowance, in accordance with one of the optional settlements specified in Section 75071.

That election, revocation, or change of election shall be made by a writing filed with the Judges' Retirement System prior to the making of the first payment on account of any retirement allowance.

(Added by Stats. 1953, Ch. 1592; amended by Stats. 1986, Ch. 115.)

§ 75071. Optional Settlements

(a) Optional settlement one consists of the right to have a retirement allowance paid to the judge for life and if he or she dies before receiving the amount of his or her accumulated contributions at retirement, to have the balance at death paid to his or her designated beneficiary or, if no beneficiary designation is in effect on the date of death, to his or her estate.

(b) (1) Optional settlement two consists of the right to have a retirement allowance paid to him or her for life and thereafter to his or her designated beneficiary for life.

(2) If the judge's designated beneficiary predeceases the judge and the judge elected this optional settlement to be effective on or after January 1, 2002, the judge's allowance shall be adjusted effective the first day of the month following the death of the beneficiary to reflect the benefit that would have been paid had the judge not elected an optional settlement.

(3) If the marriage of a retired judge is dissolved or annulled or if the retired judge and his or her beneficiary spouse are legally separated and the judgment dividing their community property awards the total interest in this system to the retired judge, and the retired judge elected this optional settlement to be effective on or after January 1, 2002, the retired judge's allowance shall be adjusted effective the first day of the month following the filing of the judgment with the board to reflect the benefit that would have been paid had the judge not elected an optional settlement.

(c) (1) Optional settlement three consists of the right to have a retirement allowance paid him or her for life, and thereafter to have one-half of his or her retirement allowance paid to his or her designated beneficiary for life.

(2) If the judge's designated beneficiary predeceases the judge and the judge elected this optional settlement to be effective on or after January 1, 2002, the judge's allowance shall be adjusted effective the first day of the month following

the death of the beneficiary to reflect the benefit that would have been paid had the judge not elected an optional settlement.

(3) If the marriage of a retired judge is dissolved or annulled or if the retired judge and his or her beneficiary spouse are legally separated and the judgment dividing their community property awards the total interest in this system to the retired judge, and the retired judge elected this optional settlement to be effective on or after January 1, 2002, the retired judge's allowance shall be adjusted effective the first day of the month following the filing of the judgment with the board to reflect the benefit that would have been paid had the judge not elected an optional settlement.

(d) Optional settlement four consists of other benefits that are the actuarial equivalent of his or her retirement allowance, that he or she may select subject to the approval of the Judges' Retirement System.

(e) When a judge elects, on or after January 1, 2003, to receive benefits provided by paragraph (2) of subdivision (b) or paragraph (2) of subdivision (c), and the judge and his or her optional settlement beneficiary both die before receiving in annuity payments the full amount of the judge's accumulated contributions at retirement, the balance of the judge's accumulated contributions shall be paid to the beneficiary designated by the judge. If the judge had no designated beneficiary in effect on the date of death, payment shall be made to the judge's estate.

(Added by Stats. 1953, Ch. 1592; amended by Stats. 1986, Ch. 115; by Stats. 1999, Ch. 671; by Stats. 2001, Ch. 433; by Stats. 2002, Ch. 661; and by Stats. 2005, Ch. 328.)

§ 75072. Increases in Optional Allowances

If, during the life of a judge who has elected to receive an optional settlement in lieu of a retirement allowance for his or her life alone, or during the life of a beneficiary under an optional settlement upon whose life contingency the optional settlement elected depends, the compensation payable to the judge holding the judicial office to which the retired judge was last appointed or elected by the people prior to his or her retirement is increased, the amounts payable to the retired judge or to his or her beneficiary, or both, shall be recomputed and increased to be the actuarial equivalent of the increased amount of the retirement allowance to which the retired judge would be entitled if he or she had not elected an optional settlement. However, this section does not give any retired judge or his or her beneficiary any claim against the state for any increase in retirement allowance or other benefit for time prior to the increase in the compensation of the incumbent judge.

(Added by Stats. 1953, Ch. 1592; amended by Stats. 1986, Ch. 115; and by Stats. 2002, Ch. 661.)

§ 75073. Waive Provision for Allowance

A judge who elects to receive optional settlement two or three may concurrently and irrevocably elect to waive the provision for an increase to his or her allowance, as specified in subdivisions (b) and (c) of Section 75071, and shall, instead, have his or her allowance based upon the waiver of this benefit.

(Added by Stats. 2001, Ch. 433.)

§ 75074. Beneficiary Designation

(a) Except as provided in subdivision (b), a judge may, at any time, including, but not limited to, at any time after reaching retirement age, designate a beneficiary to receive the benefits as may be payable to his or her beneficiary under this article, by a writing filed with the board.

(b) No designation may be made in derogation of the community property share of any nonmember spouse when any benefit is derived, in whole or in part, from community property contributions or service credited during the period of marriage, unless the nonmember spouse has previously obtained an alternative order for division pursuant to Section 2610 of the Family Code.

(c) The designation, subject to conditions imposed by board rule, may be by class, in which case the members of the class at the time of the judge's death shall be entitled as beneficiaries. The designation shall also be subject to the board's conclusive determination, upon evidence satisfactory to it, of the existence, identity, or other facts relating to entitlement of any person designated as beneficiary, and payment made by this system in reliance on any determination made in good faith, notwithstanding that it may not have discovered a beneficiary otherwise entitled to share in the benefit, shall constitute a complete discharge and release of this system for further liability for the benefit.

(Added by Stats. 2002, Ch. 661.)

ARTICLE 3.6. BENEFITS PAYABLE

§ 75075. Election of Benefits

Any judge hereafter retiring pursuant to Section 75025 or 75060 may elect to receive the benefits accorded by this article if he or she retires for service or disability.

Every judge who qualifies under this section shall be deemed to elect to receive the benefits accorded by this article, unless he or she makes an election to the contrary by filing written notice thereof with the Judges' Retirement System at or prior to retirement.

Any judge whose service would qualify him or her for any benefits under this article if the total of the service included an additional 60 days, shall be deemed to have credited to him or her, sufficient service to qualify for the benefit.

(Added by Stats. 1959, Ch. 1363; amended by Stats. 1961, Ch. 1773; by Stats. 1963, Ch. 1953; by Stats. 1965, Ch. 1251; by Stats. 1968, Ch. 1377; by Stats. 1984, Ch. 1320, effective 9/24/84; by Stats. 1988, Ch. 992; by Stats. 1990, Ch. 29, effective 3/19/90; by Stats. 1991, Ch. 90, effective 6/30/91; and by Stats. 1998, Ch. 212.)

§ 75075.01. Limitations Under Federal Law

(a) Notwithstanding any other provision of this part, the benefits payable to any person who for the first time becomes a member on or after January 1, 1990, shall be subject to the limitations set forth in Section 415 of the Internal Revenue Code.

(b) Notwithstanding any other law, the benefits payable to any person who became a member prior to January 1, 1990, shall be subject to the greater of the following limitations as provided in Section 415(b)(10) of the Internal Revenue Code:

(1) The limitations set forth in Section 415 of the Internal Revenue Code.

(2) The accrued benefit of a member under this system (determined without regard to any amendment to the system made after October 14, 1987).

(Added by Stats. 1989, Ch. 1305, effective 10/1/89.)

§ 75075.02. Annual Compensation

The benefits payable to any person who first becomes a member of this system on or after July 1, 1996, shall not exceed the limitations in Section 401(a) of Title 26 of the United States Code upon public retirement systems, as that section may be amended from time to time and as that limit may be adjusted by the Commissioner of Internal Revenue for increases in cost of living. The determination of compensation for each 12-month period shall be subject to the annual compensation limit in effect for that calendar year. In a determination of average annual compensation over more than one 12-month period, the amount of compensation taken into account for each 12-month period shall be subject to the applicable annual compensation limit.

(Added by Stats. 1995, Ch. 829.)

§ 75075.1. Repealed

(Repealed by Stats. 1994, Ch. 235.)

§ 75076. Maximum Allowances

(a) A judge who qualifies, as prescribed in Section 75075, to receive the benefits accorded by this article shall receive a retirement allowance equal to 65 percent of the salary payable, at the time payment of the allowance falls due, to the judge holding the judicial office to which he or she was last elected or appointed; except that if upon retirement a judge has received credit for 20 or

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more years of service rendered prior to the expiration of the time within which the judge is eligible to elect to receive the benefits accorded by this article and for which he or she has contributed to the Judges' Retirement Fund his or her retirement allowance shall equal 75 percent of that salary .

(b) Any judge retiring after July 7, 1960, who has or shall become entitled to credit for service as a judge of a court of record prior to the inclusion of the judges of those courts, or of all of those courts, under the Judges' Retirement Law, or as a "judge of an excluded court" as defined by Section 75029, or as a "constitutional officer" or "public legal officer" as defined by Section 75030.5, without having contributed therefor to the Judges' Retirement Fund, may at any time prior to retirement contribute for all or any part of that service by paying into the fund a sum of money computed by applying to the rate of salary which he or she actually received during his or her first year of service as a judge the rate of deduction first applicable to his or her salary as a judge after the inclusion of the judges of his or her court under the Judges' Retirement Law, multiplied by the period of service for which contributions are elected to be made, plus interest at 3 percent a year to the date of his or her payment upon the amounts of the deductions and from the respective dates they would have been made if he or she had been the holder of a judicial office subject to the provisions of the Judges' Retirement Law at the time of the rendition of the services for which he or she has received or hereafter receives that credit.

The amount of any contribution authorized by this subdivision and interest thereon shall be determined by the Judges' Retirement System in accordance with this subdivision.

(c) If the judge retires pursuant to Section 75025, the allowance is payable during the remainder of his or her life; if pursuant to Section 75060, it is payable as provided in Section 75060.6.

(Added by Stats. 1959, Ch. 1363; amended by Stats. 1960 1st Ex Sess, Ch. 25; by Stats. 1986, Ch. 115; by Stats. 1988, Ch. 992; by Stats. 1991, Ch. 90, effective 6/30/91; and by Stats. 1998, Ch. 212.)

§ 75076.1. Retirement under Section 75025 or Section 75060 Subject to Nonmember Account

If a community property benefit has been awarded to a judge's ex-spouse pursuant to Article 2.5 (commencing with Section 75050), the percent of the salary payable to the judge who retires under Section 75025 or 75060 shall be computed at the rate of 65 percent of the salary payable, at the time payment of the allowance falls due, to the judge holding the judicial office to which he or she was last elected or appointed, less the percentage awarded to the ex-spouse, or 75 percent of the salary payable less the percentage of the amount awarded to the ex-spouse if the judge has served at least 20 years of service at the time of his or her retirement. In no instance, regardless of the total number of years of judicial

service, shall the retirement allowance percentage awarded the judge when combined with the percentage awarded the ex-spouse exceed the maximum amount allowable under the pertinent section under which the judge retired.

(Added by Stats. 1989, Ch. 1379.)

§ 75076.2. Computation of Part-Time Service

A judge who renders part-time service after January 1, 1990, shall receive a reduced retirement allowance. The reduction shall be based upon the relationship between the actual service rendered by the judge, including service rendered by reason of sitting on assignment, and a full-time judge's service during the period from January 1, 1990, until the date of retirement. Computations under this section and subdivision (a) of Section 75076 shall consider the salary payable to the judge of a municipal or justice court to be equal to 91.3225 percent of the salary of a superior court judge. For purposes of qualifying for retirement, part-time service shall be the equivalent of full-time service.

(Added by Stats. 1989, Ch. 1417; amended by Stats. 2002, Ch. 784.)

§ 75076.5. Reduction of Allowance

Notwithstanding any other provision of law, in no event shall an allowance payable pursuant to this chapter to a retired member on the effective date of a reduction in judges' salaries ever be reduced to an amount less than the amount produced by multiplying the amount of the highest salary the retired member was paid while serving as a judge by the following percentages:

(a) For an allowance computed pursuant to Section 75032, 50 percent.

(b) For an allowance computed pursuant to the first clause of subdivision (a) of Section 75076, 65 percent.

(c) For an allowance computed pursuant to the second clause of subdivision (a) of Section 75076, 75 percent.

(d) For an allowance computed pursuant to Section 75033 or 75033.5, the percentage used to calculate the original retirement allowance pursuant to Section 75033 or 75033.5.

(Added by Stats. 1987, Ch. 1023; amended by Stats. 1988, Ch. 992.)

§ 75077. Surviving Spouse Allowance

The surviving spouse of a judge who qualifies, as prescribed in Section 75075, to receive the benefits accorded by this article and who dies during retirement shall receive, until death, an allowance equal to one-half of the retirement allowance that would be payable to the judge if he or she were living and receiving the benefits accorded by this article.

(Added by Stats. 1959, Ch. 1363; amended by Stats. 1998, Ch. 212; by Stats. 2002, Ch. 664; and by Stats. 2004, Ch. 231.)

§ 75077.5. Effect of Marriage Date on Survivor Allowance

For a judge who dies after retirement, the spouse of a judge at death may receive benefits payable to a surviving spouse under this chapter only if the spouse was married to the judge as of January 1, 1980, or continuously for a period beginning one year prior to the date of retirement and ending with the judge's death.

It is the intent of the Legislature that this section apply to all judges first appointed or elected to office on and after January 1, 1980, or to any judge who marries on or after January 1, 1980.

(Added by Stats. 1979, Ch. 709.)

Note: *Fildew, et al. v. Board of Administration of PERS, Los Angeles Superior Court Case No. C462872* (judgment entered January 24, 1984), it was held that this section may not constitutionally be applied to the surviving spouse of any sitting judge or retired judge who took office before January 1, 1980, regardless of when the marriage occurred or occurs.

§ 75078. Manner of Payment

The allowance to the judge and to his surviving spouse under this article shall be paid by the State at the times and in the manner provided for the payment of salaries of justices of the Supreme Court.

(Added by Stats. 1959, Ch. 1363.)

§ 75079. Finality of Election: Actuarially Reduced Allowance

(a) When a judge elects and becomes entitled to receive the benefits accorded by this article, he or she does not have the right to select an optional settlement under the provisions of Article 3.5 (commencing with Section 75070) of this chapter.

(b) When a judge becomes entitled on and after January 1, 1987, to receive the benefits accorded by this article, the judge may instead elect an actuarially reduced retirement allowance payable for life and if the judge dies before he or she receives the amount of his or her accumulated contributions at retirement, the remaining unpaid amount of his or her accumulated contributions shall be paid to his or her designated beneficiary, if he or she has so designated, and if none, to his or her estate.

The election shall be made in writing and filed with the Judges' Retirement System prior to the making of the first payment on account of any retirement allowance.

(c) The surviving spouse of a judge who qualifies, as prescribed in Section 75075, to receive the benefits accorded by Section 75076 but who elected to receive the actuarially reduced retirement allowance as provided in subdivision (b) and who dies during retirement shall receive, until death, an allowance equal to one-half of the retirement allowance that would have been payable to the judge if

he or she were living and had elected to receive the benefits accorded by Section 75076.

(Added by Stats. 1959, Ch. 1363; amended by Stats. 1986, Ch. 1417; and by Stats. 2004, Ch. 231.)

§ 75079.5. Retirement under Section 75025: Optional Settlement Election

Notwithstanding any other provision of this part, a judge who retires on or after January 1, 2002, and who elects to retire pursuant to Section 75025 shall have the right to elect an optional settlement pursuant to Article 3.5 (commencing with Section 75070).

(Added by Stats. 2001, Ch. 433.)

ARTICLE 4. EMPLOYMENT OF RETIRED JUDGES

§ 75080. Termination or Reduction of Disability Allowance

(a) If, after retirement for disability, a retired judge engages in the practice of law or other gainful occupation, the retirement allowance otherwise payable to him or her shall continue and shall not be reduced, except as provided in this section.

(b) If a retired judge becomes entitled to any salary for assignment to a court by the Chairperson of the Judicial Council after retirement under Section 75060, the retirement allowance otherwise payable to him or her shall, during the time he or she is entitled to receive that salary or other compensation, be reduced by the amount of that salary or compensation.

(c) Except as provided in subdivision (d), if a judge who is retired for disability engages in the practice of law or any other gainful occupation in which the compensation earned in any month when combined with the judge's allowance exceeds 75 percent of the salary payable to the judge holding the judicial office to which the retired judge was last elected or appointed, the retirement allowance otherwise payable to the judge shall be reduced by the amount of any earnings in excess of that amount. The judge shall report the compensation earned during each month to the board by the eighth day of the following month.

(d) If a judge who is retired for disability engages in the practice of law or other gainful occupation that requires the discharge of duties substantially similar to those duties that he or she was found, pursuant to Section 75060, to be unable to discharge efficiently because of his or her mental or physical disability, the retirement allowance otherwise payable to him or her shall cease permanently.

(e) Persons affected by this section shall report all compensation earned in a form and manner required by the Board of Administration of the Public Employees' Retirement System under penalty of perjury. The board shall have the authority to require these persons to grant the board permission to request wage information for the purposes of verifying the reported compensation earned. The

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Employment Development Department shall report compensation in a form and manner required by the board in accordance with Section 1798.24 of the Civil Code. The board shall reimburse the Employment Development Department for the costs that the department incurs in searching for and providing that information.

(f) When a person described in subdivision (c) reaches the age at which he or she would have been eligible for retirement, pursuant to Section 75025, had he or she not incurred the disability, his or her retirement allowance shall be made equal to the amount it would be if not reduced under that subdivision, and shall not again be modified for any cause.

(g) A judge who is retired for disability or becomes entitled to any salary for assignment to a court by the Chairperson of the Judicial Council after retirement under Section 75060 shall not be eligible to receive service credit in another public retirement system or under this chapter or to be reinstated to this system.

(h) The Legislature reserves the right to increase or reduce the benefits prescribed by this section as it may find appropriate.

(Added by Stats. 1953, Ch. 206; amended by Stats. 1981, Ch. 585; by Stats. 1982, Ch. 1639 and Ch. 1640; by Stats. 1986, Ch. 1144; and by Stats. 1999, Ch. 671.)

§ 75081. Repealed

(Repealed by Stats. 1961, Ch. 681.)

§ 75082. Repealed

(Repealed by Stats. 1961, Ch. 681.)

§ 75083. Appointment as Master or Referee

Any judge retired pursuant to this chapter who is appointed by the Supreme Court or any court of appeal, or division thereof, to act as a master or referee in any proceeding pending before those courts or before the Commission on Judicial Performance, shall be paid while so acting, in addition to his or her retirement allowance (taken without reduction on account of any election pursuant to Article 3.5 (commencing with Section 75070)) the difference, if any, between the retirement allowance and the compensation of a judge of the court from which he or she retired.

When appointed to act as referee in a county other than that in which he or she resides, he or she shall also be allowed his or her necessary expenses for travel, board, and lodging incurred in the discharge of that appointment.

The extra compensation and expenses, if any, shall be chargeable to the state.

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(Added by Stats. 1959, Ch. 1664; amended by Stats. 1967, Ch. 17; by Stats. 1974, Ch. 149, effective 4/4/74; by Stats. 1982, Ch. 454; and by Stats. 2002, Ch. 664.)

ARTICLE 4.5. EXTENDED SERVICE INCENTIVE PROGRAM

§ 75085. Purpose

The Extended Service Incentive Program is hereby created to provide an incentive to judges who are eligible to receive the maximum retirement benefit to remain in public service. The program is intended to address the growing problem of judges retiring when they are first eligible to do so. The people of California are continuing to lose vital judicial resources and experience when long-serving judges leave public service. The Extended Service Incentive Program shall provide certain judges who retire with more than 23 years of creditable service with a lump sum payment in addition to their normal monthly retirement allowance. It is intended that the program shall operate at no cost to the state, due to the anticipated delayed retirement of the participating judges.

(Added by Stats. 2000, Ch. 961.)

§ 75085.1. Administration

The design and administration of the Extended Service Incentive Program shall conform to the applicable provisions of Title 26 of the United States Code and the Revenue and Taxation Code.

(Added by Stats. 2000, Ch. 961.)

§ 75085.2. Invalid Provision

If any provision of this article or application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of this article that can be given effect without the invalid provision or application, and to this end the provisions of this article are severable.

(Added by Stats. 2000, Ch. 961.)

§ 75085.3. Implementation

The board shall implement the Extended Service Incentive Program pursuant to the provisions of this article no later than July 1, 2001, unless the board determines, by resolution, that the implementation tasks cannot be completed until a later date, in which case the board shall implement the program pursuant to this article no later than January 1, 2002.

(Added by Stats. 2000, Ch. 961.)

§ 75085.4. Regulations

The board may adopt regulations to implement the program.

(Added by Stats. 2000, Ch. 961.)

§ 75085.5. "Program"

"Program" means the Extended Service Incentive Program.

(Added by Stats. 2000, Ch. 961.)

§ 75085.6. "Extended Service Calculation Date"

"Extended service calculation date" means the later of (a) January 1, 2001, or (b) the date the judge first becomes eligible to participate in the program pursuant to Section 75086.

(Added by Stats. 2000, Ch. 961.)

§ 75085.7. "Extended Service Period"

"Extended service period" means a period of time commencing on the extended service calculation date and ending (a) on the date of the judge's retirement or his or her earlier termination of service, as provided in subdivision (b) of Section 75086.1, or (b) 120 months after the extended service calculation date, whichever is earlier. Nothing in this article shall be deemed to prohibit a judge from continuing to perform creditable service beyond the extended service period.

(Added by Stats. 2000, Ch. 961.)

§ 75085.8. "Program Payment"

"Program payment" means the amount to be paid to the judge as a result of his or her participation in the program, as calculated in Section 75087.

(Added by Stats. 2000, Ch. 961.)

§ 75086. Eligibility

A judge shall be eligible to participate in the program if the judge has performed at least 20 years of creditable service and is at least 60 years of age.

(Added by Stats. 2000, Ch. 961.)

§ 75086.1. Creditable Service

(a) A judge described in Section 75086 shall be entitled to receive a program payment at the time of his or her termination of employment and retirement if the judge continued to perform creditable service for at least 36 months after the extended service calculation date.

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(b) Notwithstanding subdivision (a), if a judge described in Section 75086 ceases to perform creditable service within 36 months after the extended service calculation date due to the judge's death or disability, or because the judge was unsuccessful in his or her efforts to be reelected or retained in office, the judge, or the judge's beneficiary, shall be entitled to receive a program payment. No program payment shall be distributed pursuant to this subdivision prior to the implementation of the program as provided in Section 75085.3.

(Added by Stats. 2000, Ch. 961.)

§ 75086.2. Employee Contribution

The judge's retirement contribution shall continue during the extended service period.

(Added by Stats. 2000, Ch. 961.)

§ 75087. Calculation of Payment

The program payment shall be calculated by the system as an aggregate amount equal to a percentage of the judge's monthly salary for each month of the extended service period, taking into account any salary increases occurring during the period, plus monthly interest thereon at a rate indexed to 30 year United States Treasury Bonds. For the first to the 60th month, inclusive, of the extended service period, the calculation amount shall be 20 percent of the judge's monthly salary. For the 61st to the 120th month, inclusive, of the extended service period, the calculation amount shall be 8 percent of the judge's monthly salary.

(Added by Stats. 2000, Ch. 961.)

§ 75088. Termination of Employment

Upon the termination of employment and retirement of a judge who is entitled to a program payment, as described in subdivision (a) of Section 75086.1, the judge shall receive the program payment, calculated pursuant to Section 75087, in the form of a single, lump-sum payment, in addition to any other retirement benefit to which the judge is entitled pursuant to this chapter.

(Added by Stats. 2000, Ch. 961.)

§ 75088.3. Program Payment Distribution

The required beginning date of distributions that reflect the entire interest of the judge shall be as follows:

(a) In the case of a lump-sum distribution to the judge, the lump-sum payment shall be made not later than April 1 of the calendar year following the later of the calendar year in which the judge attains the age of 70 and one-half years or the calendar year in which the judge terminates employment.

(b) In the case of a program payment payable on account of the judge's death, the distribution shall be made no later than December 31 of the calendar year in which the fifth anniversary of the judge's date of death occurs unless the beneficiary is the judge's spouse in which case distributions shall commence on or before the later of either:

(1) December 31 of the calendar year immediately following the calendar year in which the judge dies.

(2) December 31 of the calendar year in which the judge would have attained the age of 70 and one-half years.

(Added by Stats. 2000, Ch. 961.)

§ 75088.4. Beneficiary Designation

A judge described in Section 75086 may, at any time, designate a beneficiary to receive the benefits that may be payable to his or her beneficiary or estate under this article by a writing filed with the board, except that no designation may be made in derogation of the community property share of any nonmember spouse when any benefit is derived, in whole or in part, from community property contributions or service credited during the period of marriage, unless the nonmember spouse has previously obtained an alternative order for division pursuant to Section 2610 of the Family Code. If a judge has not filed a beneficiary designation with the board, all benefits payable pursuant to this article shall be paid to the survivors of the judge in the order set forth in Section 21493.

(Added by Stats. 2000, Ch. 961.)

§ 75089. Vested Rights

Notwithstanding any other provision of law, a judge shall have no vested rights under this article unless and until the judge satisfies the eligibility requirements specified in Section 75086. Nothing in this article shall be construed to limit the right of the Legislature to subsequently modify or repeal any provision of this article as it relates, or may relate, to all other judges subject to this chapter.

(Added by Stats. 2000, Ch. 961.)

§ 75089.1. Report to the Legislature

The Judicial Council shall, on or before January 1, 2006, prepare a report to the Legislature that analyzes the effects of the Extended Service Incentive Program, including the effect, if any, of the program on the length of service of judges. The report shall include recommendations on ways to encourage long service by judges in the Judges' Retirement System II, including whether and how to establish an Extended Service Incentive Program for members of the Judges' Retirement System II. The recommendations should also ensure that the Judges' Retirement System and

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the Judges' Retirement System II provide appropriate incentives to attract and retain judges of the highest quality from all areas of legal practice.

In addition, the board shall, on or before January 1, 2006, conduct an actuarial valuation to determine the costs of the program and report the results thereof to the Legislature.

(Added by Stats. 2000, Ch. 961.)

ARTICLE 5. SURVIVOR BENEFITS

§ 75090. Optional Surviving Spouse Benefits: Election

The benefits of this article are payable only to the surviving spouse of a judge who elects to come within this article. Any person who becomes a judge after August 22, 1964, may elect to come within this article within six months after becoming a judge or three months after notice is mailed to him or her by the Judges' Retirement System, except as otherwise provided in this section. Election to come within this article is made by filing written notice thereof with the Judges' Retirement System. Any election by a judge may thereafter be revoked by the judge and a reelection may be made at any time after that revocation.

Any judge who was married prior to January 1, 1990, and who had not previously elected to come within this article, shall exercise his or her election prior to April 1, 1990. A judge so electing shall pay all the contributions he or she would have made pursuant to Section 75092 had he or she been covered by this article as soon as originally eligible pursuant to this section.

(Added by Stats. 1961, Ch. 2136; amended by Stats. 1964 1st Ex Sess, Ch. 151; by Stats. 1984, Ch. 848 and Ch. 1320, effective 9/24/84; and by Stats. 1989, Ch. 1379.)

§ 75090.1. Repealed

(Repealed by Stats. 1994, Ch. 235.)

§ 75090.2. Repealed

(Repealed by Stats. 1994, Ch. 235.)

§ 75090.3. Repealed

(Repealed by Stats. 1994, Ch. 235.)

§ 75091. Optional Surviving Spouse Benefits: Amount and Duration

(a) If a judge who is credited with at least 10 years of service but less than 20 years of service under this chapter dies prior to retiring under this chapter, and while serving as a judge, his or her surviving spouse shall receive a monthly

allowance, payable from the Judges' Retirement Fund, equal to 1.625 percent of the monthly salary payable, at the time payment of the allowance falls due, to the judge holding the judicial office to which the deceased judge was last elected or appointed multiplied by the number of years of service of the deceased judge.

(b) If a judge who is credited with 20 years or more of service under this chapter dies prior to retiring under this chapter, and while serving as a judge, his or her surviving spouse shall receive a monthly allowance, payable from the Judges' Retirement Fund, equal to 37½ percent of the monthly salary payable, at the time the payment of the allowance falls due, to the judge holding the judicial office to which the deceased judge was last elected or appointed.

(c) For the purposes of this section any fraction of a year equals one year. The allowance is payable commencing upon the death of the judge and continuing until the death of the surviving spouse.

(d) If the surviving spouse is eligible for an allowance under Section 75104.4, the allowance provided for by Section 75104.4 shall be paid and no allowance shall be made under this article. If an allowance is paid under this section, no payment shall be made pursuant to Section 75104 or 75104.5.

(Added by Stats. 1961, Ch. 2136; amended by Stats. 2004, Ch. 231.)

§ 75092. Optional Surviving Spouse Benefits: \$2 Contribution

Any judge electing to come within this article shall contribute two dollars (\$2) a month to the Judges' Retirement Fund. Such contribution shall be deducted from the monthly salary of each judge so electing by the State Controller and each county auditor in the same manner as deductions are made pursuant to Sections 75102 and 75103. The Legislature reserves the right to increase the rate of contribution prescribed by this section in such amount as it may find appropriate.

(Added by Stats. 1961, Ch. 2136.)

§ 75093. Surviving Spouse Benefits: 25 Percent Allowance

(a) Notwithstanding any other provisions of this article to the contrary, the surviving spouse of any judge who died in office on or after January 1, 1987, shall receive a monthly allowance, equal to 25 percent of the monthly salary payable at the time payment of the allowance falls due, to the judge last holding the judicial office to which the deceased judge was last elected or appointed.

(b) A surviving spouse who receives an allowance pursuant to this section shall have no other claim with respect to the Judges' Retirement Fund or with respect to any other provisions of the Judges' Retirement Law except that a surviving spouse who receives an allowance pursuant to this section on account of a death in office on or after January 1, 1987, and who was eligible to elect the allowance payable pursuant to Section 75091, may elect, within a 24-month period after the date of the death of the judge, to become subject to Section 75091 in lieu of the benefit payable pursuant to this section, and that any surviving spouse who was, prior to

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January 1, 1987, eligible to elect the monthly allowance provided by Section 75091 but, instead, had elected at the time of the judge's death, the monthly allowance payable pursuant to this section, may elect, within a 24-month period after the date of the death of the judge, to receive the monthly allowance provided by Section 75091 in lieu of the benefit payable pursuant to this section. An election revoking the benefit payable pursuant to this section and electing to receive the monthly allowance payable pursuant to Section 75091 shall be filed with the Judges' Retirement System and the effective date of payment provided by Section 75091 shall be the first of the month following the date on which that election was filed.

(c) This section does not prevent a surviving spouse from claiming or receiving any payments to which he or she may be entitled as a beneficiary under the Extended Service Incentive Program set forth in Article 4.5 (commencing with Section 75085).

(d) If the surviving spouse has received a benefit under Division 4 (commencing with Section 3201) of the Labor Code, on account of the death of a judge, the amount of that benefit shall be deducted from the allowance payable under this section.

(e) The allowance provided by this section shall be payable commencing with the day following the date of the judge's death.

(f) This section does not apply to the death of any retired judge while serving on assignment in any court.

(Added by Stats. 1968, Ch. 1466; amended by Stats. 1986, Ch. 115 and Ch. 636, effective 8/29/86; and by Stats. 2003, Ch. 10, effective 5/14/03.)

§ 75093.1. Repealed

(Repealed by Stats. 1994, Ch. 235.)

§ 75094. Repealed

(Repealed by Stats. 2004, Ch. 231.)

Note: The text of former Section 75094 follows:

§ 75094. Surviving Spouse Benefits: Judge Death While in Office

(a) Notwithstanding any other provision of this article to the contrary, the surviving spouse of a judge who (1) died in office, (2) had attained the minimum age for service retirement applicable to the judge preceding his or her death, with a minimum of 20 years of service, and (3) was eligible to receive an allowance pursuant to Section 75025 or 75033.5, shall receive an allowance that is equal to the amount that the judge would have received if the judge had been retired from service on the date of death and had elected optional settlement 2 specified in subdivision (b) of Section 75071.

(b) A surviving spouse receiving an allowance pursuant to this section shall have no other claim to benefits with respect to the Judges' Retirement Fund or with respect to any other provision of the Judges' Retirement Law.

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(c) The benefits provided by this section are only payable to the surviving spouse of a judge who elects to come within this section. Notwithstanding Section 75090, that election may be made at any time while the judge is in office and, once made, the election is irrevocable.

(d) This section does not prevent a surviving spouse from claiming or receiving any payments to which he or she may be entitled as a beneficiary under the Extended Service Incentive Program set forth in Article 4.5 (commencing with Section 75085).

(Added by Stats. 1999, Ch. 671; amended by Stats. 2003, Ch. 10, effective 5/14/03.)

ARTICLE 5.1. SURVIVING CHILDREN BENEFITS

§ 75095. Surviving Children: Election and Contributions

The benefits of this article are payable only to the surviving children of a judge who elects to come within this article. Any person who becomes a judge after November 23, 1970, may elect to come within this article within six months after becoming a judge, or within six months of accepting or acquiring a legal duty to support one or more eligible children, whether his or her own or those of another person.

Any judge who accepted or acquired a legal duty to support one or more eligible children prior to January 1, 1988, and who had not previously elected to come within this article, shall exercise his or her election prior to July 1, 1988. A judge so electing shall pay all the contributions he or she would have made pursuant to Section 75097 had he or she been covered by this article as soon as originally eligible pursuant to this section.

Any person who is a judge on November 23, 1970, may elect to come within the provisions of this article on or before July 1, 1971.

(Added by Stats. 1970, Ch. 1100; amended by Stats. 1987, Ch. 1380.)

§ 75095.1. Repealed

(Repealed by Stats. 1994, Ch. 235.)

§ 75095.5. Repealed

(Repealed by Stats. 2002, Ch. 784; and amended by Stats. 2002, Ch. 664.)

Note: The text of former Section 75095.5 follows:

§ 75095.5. Surviving Children: Election by Judge Who Died on September 18, 1983

Any election of any judge who became a municipal court judge on May 23, 1980, and died on September 18, 1983, to come within the provisions of this article, which was filed with the Secretary of State on September 22, 1983, shall become effective on the date filed.

The surviving spouse of the person so electing who was previously eligible to come within this article and did not do so, shall pay all of the contributions he would have made pursuant to Section 75097 had he been covered by this article as soon as eligible therefor.

(Added by Stats. 1983, Ch. 1258; amended by Stats. 1984, Ch. 848.)

§ 75096. Surviving Children: Payment to Guardian—Age Limitations

The monthly allowance payable pursuant to Section 75091 shall be paid to the guardian of surviving unmarried children while under 18 years of age and the surviving unmarried children over age 18 and under the age of 22 who are full-time students, and to the child or guardian of a surviving unmarried child over age 18 who is disabled by a condition which disabled that child prior to attaining age 18 and which has continued without interruption after age 18, until the disability ceases, of a judge who dies prior to retirement under this chapter without a surviving spouse or in the event that the surviving spouse of a judge dies after his or her death. The amount paid shall be divided equally among the children.

“Children,” for the purposes of this section, shall be limited to dependent children and stepchildren of the judge at the time of his or her death.

“Disabled” or “disability” means, with respect to qualification for an allowance to a Surviving child, inability to engage in any substantial gainful occupation by reason of any physical or mental impairment which is determined by the board, on the basis of competent medical or psychiatric opinion, to be of permanent or extended duration.

Election to come within this article shall be made by filing a written notice thereof with the Judges' Retirement System. Any election by a judge may thereafter be revoked by the judge and a reelection may be made at any time after revocation.

The benefit payable under this section to a disabled child shall not exceed 25 percent of the compensation payable, at the time payments of the allowance fall due, to the judge holding the office which the judge last held prior to discontinuance of service as a judge.

The amendments to this section made during the 1991-92 Regular Session shall be applicable to any retired judge who elects to be subject to the amended provisions of this section on or before January 1, 1993.

(Added by Stats. 1970, Ch. 1100; amended by Stats. 1983, Ch. 395; and by Stats. 1992, Ch. 176, effective 7/11/92.)

§ 75096.1. Surviving Children: Guardian

Notwithstanding any other provisions of this article to the contrary, the guardian of surviving unmarried children while under 18 years of age and the surviving unmarried children over age 18 and under age 22 who are full-time students, of a judge who dies prior to retirement without a surviving spouse, or in the event that the surviving spouse of such judge dies after his death while receiving an allowance payable pursuant to Section 75093, may elect to receive in lieu of any other surviving children's benefits an allowance equivalent to that payable pursuant to Section 75093, including, in the event of the death of the judge without a surviving spouse, the deduction therein provided. The amount paid shall be divided equally among the children.

“Children” for the purposes of this section shall be limited to dependent children and stepchildren of the judge at the time of his death.

Election to come within the benefits of this article as provided in Section 75096 shall be deemed to include the judge's election that his children should enjoy the election granted by this section, and contributions shall be made by the judge so electing as provided in Section 75097.

(Added by Stats. 1973, Ch. 1157; amended by Stats. 1983, Ch. 395.)

§ 75096.2. Surviving Children: Allowance in Lieu of Other Benefits When Judge Dies Before Retirement

A monthly allowance equivalent to the allowance payable pursuant to Section 75104.4 shall be paid, in lieu of the allowance provided in Section 75096, or any other surviving children's benefits, to the guardian of surviving unmarried children while under 18 years of age and the surviving unmarried children over age 18 and under age of 22 who are full-time students, of a judge who, although eligible for retirement, dies prior to retirement under this chapter without a surviving spouse, or in the event that the surviving spouse dies after his death while receiving an allowance payable pursuant to Section 75104.4. The amount paid shall be divided equally among the children.

“Children” for the purposes of this section shall be limited to dependent children and stepchildren of the judge at the time of his death.

Election to come within the benefits of this article as provided in Section 75096 shall be deemed to include an election to enjoy the benefit of this section, and contributions shall be made by the judge so electing as provided in Section 75097.

(Added by Stats. 1973, Ch. 1157; amended by Stats. 1983, Ch. 395.)

§ 75096.3. Surviving Children: Allowance in Lieu of Other Benefits When Judge Dies After Retirement

A monthly allowance equivalent to the allowance payable pursuant to Section 75077 shall be paid, in lieu of any other surviving children's benefits, to the guardian of surviving unmarried children while under 18 years of age and the surviving unmarried children over age 18 and under age 22 who are full-time students, and to the guardian of a Surviving unmarried child over age 18 who is disabled by a condition which disabled that child prior to attaining age 18 and which has continued without interruption after age 18, until the disability ceases, of a judge who dies after retirement under this chapter without a surviving spouse or in the event that the surviving spouse of a judge dies after his or her death while receiving an allowance payable pursuant to Section 75077. The amount paid shall be divided equally among the children.

“Children,” for the purposes of this section, shall be limited to dependent children and stepchildren of the judge at the time of his or her retirement.

“Disabled” or “disability” means, with respect to qualification for an allowance to a surviving child, inability to engage in any substantial gainful occupation by reason of any physical or mental impairment which is determined by the board, on the basis of competent medical or psychiatric opinion, to be of permanent or extended duration.

Election to come within the benefits of this article as provided in Section 75096 shall be deemed to include an election to enjoy the benefits of this section, and contributions shall be made by any retired judge so electing as fixed by Section 75097 to be deducted from the judge's retirement allowance during his or her lifetime as provided in Section 75106.5.

The benefit payable under this section to a disabled child shall not exceed 25 percent of the compensation payable, at the time payments of the allowance fall due, to the judge holding the office which the retired judge last held prior to discontinuance of service as a judge.

The amendments made to this section during the 1991-92 Regular Session shall be applicable to any retired judge who elects to be subject to the amended provisions of this section on or before January 1, 1993. A retired judge so electing shall pay all the contributions he or she would have made pursuant to Section 75097 had he or she been covered by this article at the time of retirement.

(Added by Stats. 1973, Ch. 1157; amended by Stats. 1983, Ch. 395; and by Stats. 1992, Ch. 176, effective 7/11/92.)

§ 75097. Surviving Children: \$3 Contribution

Any judge electing to come within this article shall contribute three dollars (\$3) a month to the Judges' Retirement Fund. The contribution shall be deducted from the monthly salary of each judge so electing by the Controller and each county auditor in the same manner as deductions are made pursuant to Sections 75102 and 75103. The Legislature reserves the right to increase the rate of contribution prescribed by this section in such amount as it may find appropriate.

(Added by Stats. 1970, Ch. 1100; amended by Stats. 1992, Ch. 176, effective 7/11/92.)

§ 75098. Surviving Children: Waiver of Allowance for Higher Benefits

If an allowance is paid under this article no payment shall be made pursuant to Section 75104 or Section 75104.5, provided however, that if the prospective allowance payable to the children under the provisions of this article upon the death of a judge or retired judge without a surviving spouse is less than the aggregate amount payable under the provisions of Sections 75104 and 75104.5, and the judge has designated his children as his beneficiaries, the guardian of the children under age 18 and the children over 18 may elect to take the latter amount and waive the allowance otherwise payable under this article.

(Added by Stats. 1973, Ch. 1157; amended by Stats. 1983, Ch. 395.)

ARTICLE 6. JUDGES' RETIREMENT FUND

§ 75100. Judges' Retirement Fund

There is in the State Treasury a fund known as the Judges' Retirement Fund. All retirement allowances payable by law to judges shall be paid out of this fund. The fund shall consist of all cash, securities, or other assets paid into it in accordance with this article.

(Added by Stats. 1953, Ch. 206.)

§ 75101. State Contribution

The Controller shall at the end of each month ascertain the aggregate amount of the annual salaries of judges covered by the system, and out of the General Fund he or she shall transfer monthly into the Judges' Retirement Fund a sum equal to 8 percent of one-twelfth of the aggregate amount of those salaries.

(Added by Stats. 1953, Ch. 206; amended by Stats. 1962 1st Ex Sess, Ch. 62, effective and operative 5/1/62; by Stats. 1964 1st Ex Sess, Ch. 144; by Stats. 1967, Ch. 17; by Stats. 1989, Ch. 1417; by Stats. 1998, Ch. 931, effective 9/28/98; and by Stats. 1999, Ch. 785.)

§ 75102. Salary Deductions by the State

Except as provided in Section 75103.3, the Controller shall at the end of each month commencing with the salary for the month of July 1964 deduct 8 percent from the monthly salary, not including the additional compensation pursuant to Section 68203.1, of each Justice of the Supreme Court and of the courts of appeal and of the portion paid by the state of the monthly salary of each judge of the superior court and shall cause this amount to be paid into the Judges' Retirement Fund.

(Added by Stats. 1953, Ch. 206; amended by Stats. 1962 1st Ex Sess, Ch. 62, effective and operative 5/1/62; by Stats. 1964 1st Ex Sess, Ch. 144; by Stats. 1967, Ch. 17; by Stats. 1985, Ch. 524, effective 9/9/85; and by Stats. 2001, Ch. 118, effective 7/30/01.)

§ 75103. Salary Deductions by Counties

Except as provided in Section 75103.3, the auditor of each county shall deduct 8 percent from the portion paid by a county of the monthly salary, not including the additional compensation pursuant to Section 68203.1, of each judge of the superior court and cause this amount to be paid into the Judges' Retirement Fund.

(Added by Stats. 1953, Ch. 206; amended by Stats. 1962 1st Ex Sess, Ch. 62, effective and operative 5/1/62; by Stats. 1964 1st Ex Sess, Ch. 144; by Stats. 1985, Ch. 524, effective 9/9/85; by Stats. 1989, Ch. 1417; by Stats. 1998, Ch. 931,

effective 9/28/98; by Stats. 2001, Ch. 118, effective 7/30/01; and by Stats. 2002, Ch. 784.)

§ 75103.1. Increases in Contribution Rate

The Legislature reserves the right to increase the rates of contribution prescribed by Sections 75101 to 75103, inclusive, in such amounts as it may find appropriate.

(Added by Stats. 1959, Ch. 1363.)

§ 75103.2. Reduction of Benefits

The Legislature reserves the right to reduce any benefits applicable to any person who becomes a judge on and after January 1, 1980.

(Added by Stats. 1979, Ch. 709.)

§ 75103.3. Employer "Pick-up" of Contributions

Notwithstanding any other provision of law, the state and the county may pick up, for the sole purpose of deferring income taxes thereon, as authorized by Section 414(h)(2) of the Internal Revenue Code (26 U.S.C.A. Sec. 414(h)(2)) and Section 17501 of the Revenue and Taxation Code, all of the normal contributions required to be deducted under Sections 75102 to 75103, inclusive, and paid into the Judges' Retirement Fund. The payments shall be reported as employer-paid normal contributions and shall be credited to the judge's account.

Nothing in this section shall be construed to limit the authority of the state or the county to periodically eliminate the pickup by the state of all of the normal contributions required to be paid by a judge, as authorized by this section.

This section shall not affect the computation of a judge's retirement allowance.

(Added by Stats. 1985, Ch. 524, effective 9/9/85.)

§ 75103.5. Payment of Member Contributions from County Funds

No county shall directly or indirectly pay from its funds the member contributions to the Judges' Retirement Fund required by this article.

(Added by Stats. 1990, Ch. 1232, operative 1/9/91.)

§ 75104. Accumulated Contributions: Refund or Payment to Beneficiary

(a) Except as otherwise provided in subdivisions (b) and (c), should any judge die, resign, or cease to be a judge prior to his or her retirement, or die after electing to allow his or her accumulated contributions to remain in the fund pursuant to Section 75033 but prior to attaining age 65, the amount of his or her accumulated contribution shall be paid to his or her beneficiary nominated by written designation duly filed with the Judges' Retirement System, or to him or

her, as the case may be. If an allowance is paid to a surviving spouse pursuant to this chapter, no payment shall be made pursuant to this section.

(b) A judge who has filed a declaration of candidacy for election or reelection to any judicial office may not withdraw his or her contributions until after the election. If a judge is elected or reelected to a judicial office, he or she may not withdraw his or her contributions until he or she has declined to accept the office or has ceased to hold the office to which he or she has been elected.

(c) A judge who has been appointed, commissioned, or nominated to any judicial office of this state may not withdraw his or her contributions until he or she has declined to serve or terminated his or her service in the latter office.

(Added by Stats. 1953, Ch. 206; amended by Stats. 1969, Ch. 470; by Stats. 1978, Ch. 50, effective 3/17/78; by Stats. 1984, Ch. 1320, effective 9/24/84; and by Stats. 2002, Ch. 664.)

§ 75104.4. Death Before Retirement—Survivor Allowance

(a) The surviving spouse of any judge who dies on or after January 1, 1954, but before retirement and after becoming eligible for retirement pursuant to Section 75025 or 75033 or who dies on or after January 1, 1954, while serving as judge and has served as a judge for 30 years, shall receive an allowance equal to one-half of the amount of the unmodified retirement allowance that would be payable to the judge were he or she living and retired under this chapter. The allowance is payable commencing upon the day following the date of the death of the judge and continuing until the death of the surviving spouse. If, pursuant to this section, an allowance is paid to the surviving spouse of a judge, no payment shall be made pursuant to Section 75104 or 75104.5.

(b) The Legislature hereby finds and declares that the payment of allowances to the surviving spouse of a judge pursuant to this section, as amended at the 1959 Regular Session of the Legislature, serves a public purpose in that it promotes the public welfare by encouraging experienced jurists to continue their service in the expectation that the Legislature will fairly provide for their surviving spouses under changing circumstances, as the Legislature is now doing for spouses of judges who have heretofore died. Continued service by, and increased efficiency of, judges secure in this knowledge will more than compensate the state for any increased expense for allowances to surviving spouses provided by the amendment enacted at the 1959 session of the Legislature.

(Added by Stats. 1957, Ch. 2065; amended by Stats. 1959, Ch. 2105; by Stats. 1986, Ch. 115; by Stats. 2002, Ch. 664; and by Stats. 2004, Ch. 231.)

§ 75104.5. Death Before Retirement—Basic Death Benefit

Upon the death of a judge before retirement there shall be paid to his or her beneficiary, if he or she has designated one, and if not, to his or her estate, in addition to any other benefits provided by this chapter or by Division 4 of the

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Labor Code, an amount equal to one-twelfth of the annual compensation of that judge during the 12 months immediately preceding his or her death, multiplied by the completed number of years of service as a judge, but not to exceed one-half of the judge's annual compensation. The benefit accorded by this section is not payable if the deceased judge's spouse survives him or her and is entitled to receive an allowance for life pursuant to the provisions of this chapter.

(Added by Stats. 1957, Ch. 2065; amended by Stats. 2002, Ch. 664.)

§ 75105. Authority to Invest

The Board of Administration of the Public Employees' Retirement System shall have authority to invest the money contained in the Judges' Retirement Fund in the same manner and subject to the same restrictions as investments of the Public Employees' Retirement Fund.

(Added by Stats. 1953, Ch. 206; amended by Stats. 1953, Ch. 314; and by Stats. 1978, Ch. 384.)

§ 75106. Custodian of the Fund

The State Treasurer is the custodian of the Judges' Retirement Fund. At the end of each month the Judges' Retirement System shall ascertain the written notices of voluntary retirement and the written certificates of involuntary retirement that have been filed with the Judges' Retirement System and cause warrants to be drawn upon the State Treasury in favor of each retired judge for the amount of the retirement allowance to which he or she is entitled.

(Added by Stats. 1953, Ch. 206; amended by Stats. 1984, Ch. 1320, effective 9/24/84; by Stats. 1986, Ch. 115; and by Stats. 2002, Ch. 664.)

§ 75106.5. Deduction for Group Insurance or Credit Union Payments

A retired judge or the surviving spouse of a judge, entitled to receive an allowance under the provisions of this chapter, may authorize deductions to be made from the allowance, in accordance with regulations established for the payment of group insurance premiums and other premiums provided for under the provisions of Section 1156 of this code as well as shares or obligations of any regularly chartered credit union.

(Added by Stats. 1959, Ch. 1363; amended Stats. 1969, Ch. 281.)

§ 75107. Insufficient Money in the Fund

Whenever it appears to the Judges' Retirement System that the money in the Judges' Retirement Fund is insufficient, or is likely to become insufficient, to pay all retirement allowances payable by law to retired judges and all other obligations of the fund which will become payable during the ensuing fiscal year, the Judges' Retirement System shall report such condition of the fund to the Legislature at its

next regular session, and upon receipt of such report it shall be the duty and obligation of the Legislature to appropriate, in the State Budget Act, or otherwise, such sums as may be necessary to make the Judges' Retirement Fund fully sufficient to pay all of the obligations of the fund which will become payable during the ensuing fiscal year.

(Added by Stats. 1953, Ch. 206; amended by Stats. 1986, Ch. 115.)

§ 75108. Administrative Expenses

Notwithstanding any other provision, all expenses of administration of this article shall be paid by appropriation from the fund.

(Added by Stats. 1953, Ch. 206; amended by Stats. 1983, Ch. 639, effective 9/1/83.)

§ 75109. Refund of Overpayment of Contributions

If the Judges' Retirement System determines that there has been an overpayment of contributions or that any amount not required to be paid under this chapter has been paid by a judge, the Judges' Retirement System shall refund the amount of the overpayment or excess payment to the judge. So much money as may be necessary is hereby appropriated from the Judges' Retirement Fund for the purpose of making refunds under this section.

(Added by Stats. 1959, Ch. 1363; amended by Stats. 1986, Ch. 115.)

§ 75109.1. Write-Off of Specified Amounts

(a) When there has been a payment of death benefits, a return of accumulated contributions, a contribution adjustment, or a deposit of contributions, this system may refrain from collecting an underpayment of accumulated contributions if the amount to be collected is two hundred fifty dollars (\$250) or less.

(b) Notwithstanding Section 75109, when there has been a payment of death benefits, a return of accumulated contributions, a contribution adjustment, or a deposit of contributions, and there is a balance of fifty dollars (\$50) or less remaining posted to a member's individual account, or an overpayment of fifty dollars (\$50) or less was received, this system may dispense with a return of accumulated contributions.

(c) When there is a positive or negative balance of two hundred fifty dollars (\$250) or less remaining posted to a member's individual account, or the balance exceeds two hundred fifty dollars (\$250) but the difference to the monthly allowance unmodified by any optional settlement is less than five dollars (\$5), this system may dispense with any recalculation of, or other adjustment to, benefit payments.

(d) The dollar amounts specified in subdivisions (a) and (c) shall be adjusted in accordance with any changes in the dollar amounts specified in Section 13943.2.

(Added by Stats. 2004, Ch. 231.)

§ 75109.5. Actuarial Valuation Requirements

The Judges' Retirement System shall keep in convenient form such data as is necessary for the actuarial valuation of this retirement law. As of June 30, 1973, and thereafter at the ends of periods not to exceed four years, the Judges' Retirement System shall cause to be made an actuarial investigation into the mortality, service and compensation experience of members and persons receiving benefits and an actuarial valuation of the assets and liabilities of this retirement law. From time to time the Judges' Retirement System shall determine the rate of interest being earned on the Judges' Retirement Fund.

The Judges' Retirement System shall cause to be published, as of the date of the investigation and valuation, a financial statement showing an actuarial valuation of the assets and liabilities of the system and a certified statement as to the accumulated cash and securities in the Judges' Retirement Fund. The Judges' Retirement System shall include recommendations for financing the retirement law in the financial statement.

(Added by Stats. 1972, Ch. 1263; amended by Stats. 1986, Ch. 115.)

§ 75109.6. Actuarial Assumptions

When there is insufficient data upon which to establish mortality rates or other actuarial assumptions required to evaluate the obligations of the system, the board may adopt appropriate assumptions which are necessary, upon the advice and recommendation of the actuary.

All computations, payments, and other acts previously made or done by the board or its officers and employees which would be valid if this section has been in effect at the time the computations, payments, or other acts were made or done are hereby ratified, confirmed, and validated.

(Added by Stats. 1981, Ch. 388.)

§ 75109.7. Penalties for Failure to Submit Timely Reports

The board may assess a county a reasonable amount to cover costs incurred because of the county's failure to submit reports within 30 days of the date the reports are due. The payments of the assessments shall be credited to the Judges' Retirement Fund.

The board may charge interest on the amount of any payment due and unpaid by a county until payment is received. Interest shall be charged at a rate approximating the average rate received on moneys then being invested. The interest charged shall be deemed interest earnings in the year in which received.

(Added by Stats. 1982, Ch. 863.)

§ 75110. Repealed

(Repealed by Stats. 1994, Ch. 879, effective 9/26/94, operative 11/9/94.)

§ 75111. Unclaimed Benefits

(a) Whenever a person entitled to payment of a member's contributions or any other benefit fails to claim the payment or cannot be located or a warrant in payment is canceled pursuant to Section 17070, the amount owed from the retirement fund shall be administered in accordance with subdivision (c).

(b) Whenever the amount of a benefit payable by this system cannot be determined because the recipient cannot be identified or information necessary to determination of the benefit to be paid cannot be ascertained, the contributions of the member on whose account the benefit is payable shall be administered in accordance with subdivision (c).

(c) Notwithstanding any provision of law to the contrary, the amounts described in subdivisions (a) and (b) shall be held, or if a warrant has been drawn the warrant shall be redeposited in the retirement fund and held for the claimant without accumulation of interest, and the redeposit shall not operate to reinstate the membership of the person with respect to whose membership the refund or benefit was payable in this system. If the proceeds, whether heretofore or hereafter redeposited, are not claimed within four years after the date of the redeposit, they shall revert to and become a part of the fund. Transfer to the fund shall be made as of the June 30th next following the expiration of the four-year period.

The board may at any time after transfer of proceeds to the fund upon receipt of proper information satisfactory to it, return the proceeds to the credit of the claimant, to be administered in the manner provided under this system.

(Added by Stats. 1983, Ch. 773.)

OTHER RELEVANT LAW SECTIONS

Chapter 7. Compensation

§ 20639. Final Compensation—Concurrent Retirement with Judges', Legislators', or Teachers' Retirement Systems

The compensation earnable during any period of service as a member of the Judges' Retirement System, the Judges' Retirement System II, the Legislators' Retirement System, or the Defined Benefit Program of the State Teachers' Retirement Plan shall be considered compensation earnable as a member of this system for purposes of computing final compensation for the member, if he or she retires concurrently under both systems.

A member shall be deemed to have retired concurrently under this system and under the Defined Benefit Program of the State Teachers' Retirement Plan, if the member is enrolled as a disabled member under the Defined Benefit Program of the State Teachers' Retirement Plan and for retirement under this system on the same effective date.

(Added by Stats. 1978, Ch. 900; amended by Stats. 1980, Ch. 1168, effective 9/29/80; and by Stats. 1981, Ch. 609; renumbered by Stats. 1995, Ch. 379; amended by Stats. 1999, Ch. 939; and by Stats. 2001, Ch. 433.)

TITLE 8. THE ORGANIZATION AND GOVERNMENT OF THE COURTS

Chapter 2. The Judicial Council

ARTICLE 2. ASSIGNMENT OF JUDGES

§ 68543.5. Compensation of Retired Judge Assigned to Sit in Court

(a) Whenever a judge who has retired under the Judges' Retirement System or the Judges' Retirement System II is assigned to serve in a court of record, the state shall pay the judge for each day of service in the court in the amount specified in Section 68543.7, without loss or interruption of retirement benefits, unless the judge waives compensation under this section. Whenever a retired judge of a justice court who is not a member of the Judges' Retirement System nor the Judges' Retirement System II is assigned to serve in a court of record, the state shall pay the judge for each day of service in the court in the amount specified in Section 68543.7, or the compensation specified in Section 68541, whichever is greater. The compensation shall be paid by the Judicial Council out of any appropriation for extra compensation of judges assigned by the Chairperson of the Judicial Council.

(b) If a judge who has retired under the Judges' Retirement System or the Judges' Retirement System II is assigned to serve in a court of record, the 8-percent difference between the compensation of the retired judge while so assigned and the compensation of a judge of the court to which the retired judge is assigned shall be paid to the Judges' Retirement Fund or the Judges' Retirement System II Fund, as applicable.

(c) During the period of assignment, a retired judge shall be allowed expenses for travel, board, and lodging incurred in the discharge of the assignment. When assigned to sit in the county in which he or she resides, the judge shall be allowed expenses for travel and board incurred in the discharge of the assignment. The expenses for travel, board, and lodging shall be paid by the state under the rules adopted by the Board of Control that are applicable to officers of the state provided for in Article VI of the Constitution while traveling on official state business.

(d) Notwithstanding the above provisions pertaining to compensation, a retired judge on senior judge status shall receive compensation from the state as provided in Sections 75028 and 75028.2, and shall be allowed expenses for travel, board, and lodging incurred in the discharge of the assignment as provided in this section.

(Added by Stats. 1961, Ch. 681; amended by Stats. 1961, Ch. 1773; by Stats. 1967, Ch. 17; by Stats. 1971, Ch. 1049; by Stats. 1980, Ch. 51; by Stats. 1984, Ch. 1580 and Ch. 1586, operative 7/1/85; by Stats. 1988, Ch. 1310; by Stats.

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1989, Ch. 1389, operative 7/1/90; by Stats. 1990, Ch. 187, effective 6/29/90, operative 7/1/90; by Stats 1991, Ch. 90, effective 6/30/91, Ch. 189, effective 7/29/91, and Ch. 613; by Stats. 1992, Ch. 696, effective 9/15/92; by Stats. 1993, Ch. 158, effective 7/21/93; by Stats. 1994, Ch. 879, effective 9/27/94, operative 11/9/94; and by Stats. 2002, Ch. 661.)

§ 68543.7. Availability and Payment of Retired Judges Sitting on Assignment

Subject to funding in the Budget Act, the Chief Justice shall make available by assignment the equivalent of 50 additional full-time judges. A judge retired under the Judges' Retirement System or the Judges' Retirement System II sitting on assignment in a trial court shall be paid in the amount of 92 percent of 1/250th of the annual salary of a judge of the court to which he or she is assigned for each day of service in the court.

(Added by Stats. 1991, Ch. 90, effective 6/30/91; amended by Stats. 1991, Ch. 189, effective 7/29/91; by Stats. 1992, Ch. 696, effective 9/15/92; by Stats. 1993, Ch. 158, effective 7/21/93; by Stats. 1994, Ch. 879, effective 9/27/94, operative 11/9/94.)

ARTICLE 3. COORDINATED EDUCATIONAL PROGRAMS FOR THE JUDICIARY

§ 68554. Study Leave for Judges

Notwithstanding subdivisions (f) and (g) of Section 1770, the Judicial Council may grant any judge a leave of absence for a period not to exceed one year for the purpose of permitting study which will benefit the administration of justice and the individual's performance of judicial duties, upon a finding that the absence will not work to the detriment of the court. During a study leave, the judge shall receive no compensation, nor shall the period of absence count as service toward retirement, but the time of leave shall not toll the term of office.

(Added by Stats. 1992, Ch. 1199, effective 9/30/92.)

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